

SENATE BILL No. 511

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-6-5-28; IC 5-2; IC 5-10; IC 6-1.1-18.5-21; IC 9-13-2-92; IC 9-22-5-1; IC 10-14-2-5; IC 11-13-3-4; IC 27-10-2-12; IC 31-37-19-5; IC 33-37; IC 35-33.5-2-1; IC 35-38; IC 35-47-4.5-3; IC 36-2-13; IC 36-3-2-3; IC 36-8.

Synopsis: Marion County law enforcement consolidation. Establishes the annual maximum increase in the permissible ad valorem property tax levy for a consolidated city related to the police special service district. Consolidates the law enforcement services of the consolidated city and the county into the metropolitan law enforcement agency (agency). Provides that the chief of police (chief) operates the agency with oversight by a chief's merit board and the metropolitan police commission. Establishes a transition advisory board to integrate law enforcement functions and personnel into the agency. Provides a process for consolidating the law enforcement services of an excluded city into the agency. Establishes the qualifications to become a member of the agency. Establishes the powers and duties of agency members. Requires the chief to adopt a classification of ranks, grades, and positions and disciplinary rules and orders for the agency. Establishes a disciplinary administrative process for agency members. Provides for the appointment of temporary administrative ranks or positions and police reserve officers. Continues the existing sheriff's pension trust to provide retirement benefits for county police officers appointed before January 1, 2006. Provides that new appointments to the agency become members of the 1977 fund. Establishes a death benefit, disability benefit, and dependents' benefit for a sheriff or county police officer who completes an application for benefits before January 1, 2006. Establishes a procedure to determine the maximum meal allowance for prisoners in the sheriff's custody. Establishes a jail commissary fund (Continued next page)

Effective: Upon passage; July 1, 2005; January 1, 2006.

Lubbers

January 18, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.



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and inmates' trust funds. Provides that a police officer who is a member of the 1925, 1953, or 1977 fund remains a member of the same fund after the consolidation. Provides that a police officer whose services for an entity are consolidated into the metropolitan law enforcement agency of a consolidated city becomes a member of the 1977 fund. Permits the sheriff of a county having a consolidated city to become a member of the 1977 fund upon the request of the executive of the consolidated city.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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SENATE BILL No. 511

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-6-5-28 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2006]: Sec. 28. The:
3 **(1) sheriff of a county, for a general election or for a municipal**
4 **election in a consolidated city; and the**
5 **(2) chief law enforcement officer of a municipality, for a**
6 **municipal election in a municipality other than a consolidated**
7 **city;**
8 shall serve all processes issued by a county election board.
9 SECTION 2. IC 5-2-1-9, AS AMENDED BY P.L.62-2004,
10 SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS
11 CORRECTED AND AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in
13 accordance with IC 4-22-2 all necessary rules to carry out the
14 provisions of this chapter. Such rules, which shall be adopted only after
15 necessary and proper investigation and inquiry by the board, shall
16 include the establishment of the following:



(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (1), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of

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the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter*, or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites

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1 throughout the state that are used for the pre-basic course. In addition,
 2 the board may certify pre-basic courses that may be conducted by other
 3 public or private training entities, including colleges and universities.

4 (g) The board shall adopt rules under IC 4-22-2 to establish a
 5 mandatory inservice training program for police officers. After June 30,
 6 1993, a law enforcement officer who has satisfactorily completed the
 7 basic training and has been appointed to a law enforcement department
 8 or agency on either a full-time or part-time basis is not eligible for
 9 continued employment unless the officer satisfactorily completes a
 10 minimum of sixteen (16) hours each year of inservice training in any
 11 subject area included in the law enforcement academy's basic training
 12 course or other job related subjects that are approved by the board as
 13 determined by the law enforcement department's or agency's needs.
 14 *Inservice training must include training in interacting with persons*
 15 *with mental illness, addictive disorders, mental retardation, and*
 16 *developmental disabilities, to be provided by persons approved by the*
 17 *secretary of family and social services and the law enforcement*
 18 *training board.* In addition, a certified academy staff may develop and
 19 make available inservice training programs on a regional or local basis.
 20 The board may approve courses offered by other public or private
 21 training entities, including colleges and universities, as necessary in
 22 order to ensure the availability of an adequate number of inservice
 23 training programs. The board may waive an officer's inservice training
 24 requirements if the board determines that the officer's reason for
 25 lacking the required amount of inservice training hours is due to any of
 26 the following:

- 27 (1) An emergency situation.
- 28 (2) The unavailability of courses.

29 (h) The board shall also adopt rules establishing a town marshal
 30 basic training program, subject to the following:

- 31 (1) The program must require fewer hours of instruction and class
- 32 attendance and fewer courses of study than are required for the
- 33 mandated basic training program.
- 34 (2) Certain parts of the course materials may be studied by a
- 35 candidate at the candidate's home in order to fulfill requirements
- 36 of the program.
- 37 (3) Law enforcement officers successfully completing the
- 38 requirements of the program are eligible for appointment only in
- 39 towns employing the town marshal system (IC 36-5-7) and having
- 40 ~~no~~ **not** more than one (1) marshal and two (2) deputies.
- 41 (4) The limitation imposed by subdivision (3) does not apply to an
- 42 officer who has successfully completed the mandated basic

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training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

- (1) Liability.
- (2) Media relations.
- (3) Accounting and administration.
- (4) Discipline.
- (5) Department policy making.
- (6) Firearm policies.
- (7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

- (1) the police chief of any city; ~~and~~
- (2) the police chief of any town having a metropolitan police department; **and**

(3) after December 31, 2005, the chief of a metropolitan law enforcement agency established under IC 36-8-10.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

- (1) before January 1, 1994, is not required; or
- (2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

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(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 3. IC 5-2-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) Subject to section 13 of this chapter, the following persons must register under this chapter:

(1) An offender who resides in Indiana. An offender resides in Indiana if either of the following applies:

(A) The offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The offender owns real property in Indiana and returns to Indiana at any time.

(2) An offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full time or part time for a period of time:

(A) exceeding fourteen (14) consecutive days; or

(B) for an aggregate period of time exceeding thirty (30) days; during any calendar year in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) An offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), an offender who resides in Indiana shall register with the sheriff of the county where the offender resides. If an offender resides in more than one (1) county, the offender shall register with the sheriff of each county in which the offender resides. ~~However, if an offender resides in a county having a consolidated city, the offender shall register with the police chief of the consolidated city.~~

(c) An offender described in subsection (a)(2) shall register with the sheriff of the county where the offender is or intends to be employed or carry on a vocation. ~~However, an offender described in subsection (a)(2) who is employed or intends to be employed or to carry on a vocation in a consolidated city shall register with the police chief of the consolidated city.~~ If an offender is or intends to be employed or carry on a vocation in more than one (1) county, the offender shall register

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with the sheriff of each county. ~~However, if an offender is employed or intends to be employed or to carry on a vocation in a county containing a consolidated city and another county, the offender shall register with the police chief of the consolidated city and the sheriff of the other county.~~

(d) An offender described in subsection (a)(3) shall register with the sheriff of the county where the offender is enrolled or intends to be enrolled as a student. ~~However, if an offender described in subsection (a)(3) is enrolled or intends to be enrolled as a student in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.~~

(e) An offender described in subsection (a)(1)(B) shall register with the sheriff in the county in which the real property is located. ~~However, if the offender owns real property in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.~~

(f) An offender shall complete a registration form. Each sheriff ~~or police chief of a consolidated city~~ shall make the registration forms available to registrants.

(g) The offender shall register not more than seven (7) days after the offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the offender is required to register under subsection (b), (c), or (d);

whichever occurs first.

(h) Whenever an offender registers with a sheriff, ~~or the police chief of a consolidated city~~, the sheriff ~~or police chief~~ shall immediately notify the institute of the offender's registration by forwarding a copy of the registration form to the institute.

(i) The sheriff with whom an offender registers under this section shall make and publish a photograph of an offender on the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. ~~The police chief of a consolidated city with whom an offender registers under this section shall make a photograph of the offender that complies with the requirements of IC 36-2-13-5.5 and~~

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transmit the photograph (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. Every time a sex offender submits a new registration form to the police chief of a consolidated city, but at least once per year, the police chief shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5. The police chief of a consolidated city shall transmit the photograph and a copy of the registration form to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The sheriff of a county containing a consolidated city shall provide the police chief of a consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5.

(j) When an offender completes a new registration form, the sheriff or police chief of a consolidated city shall:

- (1) forward a copy of the new registration form to the institute; and
- (2) notify every law enforcement agency having jurisdiction in the area where the offender resides.

SECTION 4. IC 5-2-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) Not more than fourteen (14) days before an Indiana offender who is required to register under this chapter is scheduled to be released from a correctional facility, transferred to a community transition or community corrections program, transferred to the jurisdiction of a sentencing court or probation office for a term of probation after being confined in a facility, released from any other penal facility (as defined in IC 35-41-1-21), released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

- (1) Orally inform the offender of the offender's duty to register under this chapter and require the offender to sign a written statement that the offender was orally informed or, if the offender refuses to sign the statement, certify that the offender was orally informed of the duty to register.
- (2) Deliver a registration form advising the offender of the

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offender's duty to register under this chapter and require the offender to sign a written statement that the offender received the written notice or, if the offender refuses to sign the statement, certify that the offender was given the written notice of the duty to register.

(3) Obtain the address where the offender expects to reside after the offender's release.

(4) Inform in writing on a form or in the form prescribed or approved by the institute the sheriff having jurisdiction in the county ~~or the police chief having jurisdiction in the consolidated city~~ where the offender expects to reside of the offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the offender.

(b) Not more than three (3) days after an offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The offender's fingerprints, photograph, and identification factors.

(2) The address where the offender expects to reside after the offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the offender.

(4) Information regarding the offender's past treatment for mental disorders.

(5) Information as to whether the offender has been determined to be a sexually violent predator.

(c) This subsection applies if an offender is placed on probation or in a community corrections program without confining the offender in a penal facility. The probation office serving the court in which the sex and violent offender is sentenced shall perform the duties required under subsections (a) and (b).

SECTION 5. IC 5-2-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. (a) If an offender who is required to register under this chapter changes:

(1) home address; or

(2) if section 5(a)(2) or 5(a)(3) of this chapter applies, the place where the offender stays in Indiana;

the offender shall complete and submit a new registration form not more than seven (7) days after the address change to the sheriff ~~or the police chief~~ with whom the offender last registered.

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(b) If the offender moves to a new county in Indiana, the sheriff ~~or the police chief~~ referred to in subsection (a) shall inform the sheriff in the new county ~~or the police chief of the consolidated city, if the county has a consolidated city,~~ in Indiana of the offender's residence by forwarding to the sheriff ~~or the police chief~~ in the new county a copy of the registration form. The sheriff ~~or the police chief~~ receiving the notice under this subsection shall verify the address of the offender under section 8.5 of this chapter within seven (7) days after receiving the notice.

(c) If an offender who is required to register under section 5(a)(2) or 5(a)(3) of this chapter changes the offender's principal place of employment, principal place of vocation, or campus or location where the offender is enrolled in school, the offender shall submit a new registration form not more than seven (7) days after the change to the sheriff ~~or the police chief of a consolidated city~~ with whom the offender last registered.

(d) If an offender moves the offender's place of employment, vocation, or enrollment to a new county in Indiana, the sheriff ~~or the police chief of a consolidated city~~ referred to in subsection (c) shall inform the sheriff in the new county in Indiana ~~or the police chief of the consolidated city, if the county has a consolidated city,~~ of the offender's new principal place of employment, vocation, or enrollment by forwarding a copy of the registration form to the sheriff ~~or the police chief of the consolidated city~~ in the new county.

(e) If an offender moves the offender's residence, place of employment, or enrollment to a new state, the sheriff ~~or the police chief of the consolidated city~~ shall inform the state police in the new state of the offender's new place of residence, employment, or enrollment.

(f) A sheriff ~~or police chief of a consolidated city~~ shall make the forms required under this section available to registrants.

(g) A sheriff ~~or police chief of a consolidated city~~ who is notified of a change under subsection (a) or (c) shall immediately notify the institute of the change by forwarding a copy of the registration form to the institute.

SECTION 6. IC 5-2-12-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8.5. (a) To verify an offender's current residence, the sheriff ~~(or the police chief of a consolidated city)~~ shall do the following:

(1) Mail each offender a registration form to the offender's listed address at least one (1) time per year, beginning seven (7) days after the sheriff ~~(or the police chief of a consolidated city)~~ receives a notice under section 14 of this chapter or the date the

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offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

(2) Mail a registration form to each offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the sheriff ~~(or the police chief of a consolidated city)~~ receives a notice under section 14 of this chapter or the date the offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) placed in a community corrections program;
- (D) placed on parole; or
- (E) placed on probation;

whichever occurs first.

(b) If an offender fails to return a signed registration form either by mail or in person, the sheriff ~~(or the police chief of a consolidated city)~~ shall immediately notify the institute and the prosecuting attorney.

SECTION 7. IC 5-2-12-8.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8.6. (a) An offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If an offender who is required to register under this chapter changes the offender's name due to marriage, the offender must notify the county sheriff ~~(or the police chief of a consolidated city)~~ by completing a registration form not more than thirty (30) days after the name change.

SECTION 8. IC 5-2-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of an offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency

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1 to coordinate the transfer of information.

2 (c) If the state agency receives information that an offender has
3 relocated to Indiana to reside, engage in employment or a vocation, or
4 enroll in school, the state agency shall inform in writing the sheriff of
5 the county ~~(or the police chief of the consolidated city)~~ where the
6 offender is required to register in Indiana of:

- 7 (1) the offender's name, date of relocation, and new address; and
8 (2) the sex and violent offense or delinquent act committed by the
9 offender.

10 SECTION 9. IC 5-10-8-2.2 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.2. (a) As used
12 in this section, "dependent" means a natural child, stepchild, or adopted
13 child of a public safety employee who:

- 14 (1) is less than eighteen (18) years of age;
15 (2) is eighteen (18) years of age or older and physically or
16 mentally disabled (using disability guidelines established by the
17 Social Security Administration); or
18 (3) is at least eighteen (18) and less than twenty-three (23) years
19 of age and is enrolled in and regularly attending a secondary
20 school or is a full-time student at an accredited college or
21 university.

22 (b) As used in this section, "public safety employee" means a
23 full-time firefighter, police officer, county police officer, or sheriff.

24 (c) This section applies only to local unit public employers and their
25 public safety employees.

26 (d) A local unit public employer may provide programs of group
27 health insurance for its active and retired public safety employees
28 through one (1) of the following methods:

- 29 (1) By purchasing policies of group insurance.
30 (2) By establishing self-insurance programs.
31 (3) By electing to participate in the local unit group of local units
32 that offer the state employee health plan under section 6.6 of this
33 chapter.

34 A local unit public employer may provide programs of group insurance
35 other than group health insurance for the local unit public employer's
36 active and retired public safety employees by purchasing policies of
37 group insurance and by establishing self-insurance programs. However,
38 the establishment of a self-insurance program is subject to the approval
39 of the unit's fiscal body.

40 (e) A local unit public employer may pay a part of the cost of group
41 insurance for its active and retired public safety employees. However,
42 a local unit public employer that provides group life insurance for its

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1 active and retired public safety employees shall pay a part of the cost
2 of that insurance.

3 (f) A local unit public employer may not cancel an insurance
4 contract under this section during the policy term of the contract.

5 (g) After June 30, 1989, a local unit public employer that provides
6 a group health insurance program for its active public safety employees
7 shall also provide a group health insurance program to the following
8 persons:

9 (1) Retired public safety employees.

10 (2) Public safety employees who are receiving disability benefits
11 under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, ~~or~~ IC 36-8-10,
12 **or IC 36-8-10.1.**

13 (3) Surviving spouses and dependents of public safety employees
14 who die while in active service or after retirement.

15 (h) A retired or disabled public safety employee who is eligible for
16 group health insurance coverage under subsection (g)(1) or (g)(2):

17 (1) may elect to have the person's spouse, dependents, or spouse
18 and dependents covered under the group health insurance
19 program at the time the person retires or becomes disabled;

20 (2) must file a written request for insurance coverage with the
21 employer within ninety (90) days after the person retires or begins
22 receiving disability benefits; and

23 (3) must pay an amount equal to the total of the employer's and
24 the employee's premiums for the group health insurance for an
25 active public safety employee (however, the employer may elect
26 to pay any part of the person's premiums).

27 (i) Except as provided in IC 36-8-6-9.7(f), IC 36-8-6-10.1(h),
28 IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h),
29 IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), ~~IC 36-8-8-14.1(h), and~~
30 **IC 36-8-8-14.1(h)**, IC 36-8-10-16.5, **and IC 36-8-10.1-43** for a
31 surviving spouse or dependent of a public safety employee who dies in
32 the line of duty, a surviving spouse or dependent who is eligible for
33 group health insurance under subsection (g)(3):

34 (1) may elect to continue coverage under the group health
35 insurance program after the death of the public safety employee;

36 (2) must file a written request for insurance coverage with the
37 employer within ninety (90) days after the death of the public
38 safety employee; and

39 (3) must pay the amount that the public safety employee would
40 have been required to pay under this section for coverage selected
41 by the surviving spouse or dependent (however, the employer may
42 elect to pay any part of the surviving spouse's or dependents'

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premiums).

(j) A retired or disabled public safety employee's eligibility for group health insurance under this section ends on the earlier of the following:

(1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving spouse through employment.

(l) A dependent's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in subsection (a).

(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to

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1 pay all or a part of the employer's premium for the insurance while the
2 employee is on leave without pay.

3 SECTION 10. IC 5-10-10-1.5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1.5. As used in
5 this chapter, "correctional officer" includes:

- 6 (1) a county jail officer under IC 11-12-4-4;
- 7 (2) a person who has received a correctional officer training
8 certificate under IC 11-8-2-8;
- 9 (3) a prison matron or an assistant prison matron under
10 IC 36-8-10-5 or **IC 36-8-10.1-25**; and
- 11 (4) any other person whose duties include the daily or ongoing
12 supervision and care of persons who are lawfully detained (as
13 defined in IC 35-41-1-18) in a facility operated by the state or a
14 political subdivision of the state.

15 SECTION 11. IC 5-10-10-4 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. As used in this
17 chapter, "public safety officer" means any of the following:

- 18 (1) A state police officer.
- 19 (2) A county sheriff.
- 20 (3) A county police officer.
- 21 (4) A correctional officer.
- 22 (5) An excise police officer.
- 23 (6) A county police reserve officer.
- 24 (7) A city police reserve officer.
- 25 (8) A conservation enforcement officer.
- 26 (9) A town marshal.
- 27 (10) A deputy town marshal.
- 28 (11) A probation officer.
- 29 (12) A state university police officer appointed under
30 IC 20-12-3.5.
- 31 (13) An emergency medical services provider (as defined in
32 IC 16-41-10-1) who is:
 - 33 (A) employed by a political subdivision (as defined in
34 IC 36-1-2-13); and
 - 35 (B) not eligible for a special death benefit under IC 36-8-6-20,
36 IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.
- 37 (14) A firefighter who is employed by the fire department of a
38 state university.
- 39 **(15) A member of the metropolitan law enforcement agency**
40 **(as defined in IC 36-8-10.1-8).**

41 SECTION 12. IC 5-10-13-2 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this

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chapter, "employee" means an individual who:

(1) is employed full time by the state or a political subdivision of the state as:

(A) a member of a fire department (as defined in IC 36-8-1-8);

(B) an emergency medical services provider (as defined in IC 16-41-10-1);

(C) a member of a police department (as defined in IC 36-8-1-9);

(D) a correctional officer (as defined in IC 5-10-10-1.5);

(E) a state police officer;

(F) a county police officer;

(G) a county sheriff;

(H) an excise police officer;

(I) a conservation enforcement officer;

(J) a town marshal; ~~or~~

(K) a deputy town marshal; **or**

(L) a member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8);

(2) in the course of the individual's employment is at high risk for occupational exposure to an exposure risk disease; and

(3) is not employed elsewhere in a similar capacity.

SECTION 13. IC 6-1.1-18.5-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 21. For property taxes first due and payable in each year beginning in 2007, the maximum permissible ad valorem property tax levy for a consolidated city is increased in each year by an amount equal to the lesser of:**

(1) the difference between:

(A) the maximum permissible ad valorem property tax levy under section 3 of this chapter for the current year for the consolidated city's police special service district created under IC 36-3-1-6; and

(B) the amount levied that year for the police special service district; or

(2) ten percent (10%) of the maximum permissible ad valorem property tax levy under section 3 of this chapter for property taxes first due and payable in 2006 for the consolidated city's police special service district created under IC 36-3-1-6.

SECTION 14. IC 9-13-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 92. (a) "Law enforcement officer", except as provided in subsection (b), includes the following:

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- (1) A state police officer.
- (2) A city, town, or county police officer.
- (3) A sheriff.
- (4) A county coroner.
- (5) A conservation officer.

(6) A member of the metropolitan law enforcement agency.

(b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in IC 35-41-1.

SECTION 15. IC 9-22-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. The following officers may act for their respective units of government under this chapter:

- (1) The sheriff, for a county **other than a county having a consolidated city.**
- (2) The chief of police, for a city **other than a consolidated city.**
- (3) The chief of police for:**
 - (A) a county having a consolidated city; and**
 - (B) the consolidated city.**
- ~~(4)~~ (4) A town marshal, for a town.
- ~~(5)~~ (5) A township trustee, for a township.
- ~~(6)~~ (6) A state police officer, for the state.

SECTION 16. IC 10-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) For purposes of this section, "member of the military or public safety officer" means an individual who is:

- (1) a member of a fire department (as defined in IC 36-8-1-8);
- (2) an emergency medical service provider (as defined in IC 16-41-10-1);
- (3) a member of a police department (as defined in IC 36-8-1-9);
- (4) a correctional officer (as defined in IC 5-10-10-1.5);
- (5) a state police officer;
- (6) a county police officer;
- (7) a police reserve officer;
- (8) a county sheriff;
- (9) a deputy sheriff;
- (10) an excise police officer;
- (11) a conservation enforcement officer;
- (12) a town marshal;
- (13) a deputy town marshal;
- (14) a university police officer appointed under IC 20-12-3.5;
- (15) a probation officer;

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- (16) a paramedic;
- (17) a volunteer firefighter (as defined in IC 36-8-12-2);
- (18) an emergency medical technician or a paramedic working in a volunteer capacity;
- (19) a member of the armed forces of the United States;
- (20) a member of the Indiana Air National Guard; ~~or~~
- (21) a member of the Indiana Army National Guard; **or**
- (22) a member of the metropolitan law enforcement agency (as defined in IC 36-8-10.1-8)**

(b) For purposes of this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a member of the military or public safety officer, in the member of the military's or public safety officer's official capacity, is obligated or authorized by rule, regulation, condition of employment or services, or law to perform in the course of performing the member of the military's or public safety officer's duty.

(c) If a member of the military or public safety officer dies in the line of duty, a state flag shall be presented to:

- (1) the surviving spouse;
- (2) the surviving children if there is no surviving spouse; or
- (3) the surviving parent or parents if there is no surviving spouse and there are no surviving children.

(d) The state emergency management agency shall administer this section and may adopt rules under IC 4-22-2 to implement this section.

SECTION 17. IC 11-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the

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notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:

(A) the residence of the parolee prior to the parolee's incarceration; and

(B) the parolee's place of employment; and

(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex and violent offender (as defined in IC 5-2-12-4) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is an offender (as defined in IC 5-2-12-4) to register with a sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12-5;

(B) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the offender obtains written

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approval from the parole board; and

(C) prohibit a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the offender's sex offense unless the offender obtains a waiver under IC 35-38-2-2.5.

If the parole board allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

(h) The address of the victim of a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the offender obtains a waiver under IC 35-38-2-2.5.

SECTION 18. IC 27-10-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) If a defendant does not appear as provided in the bond:

(1) the court shall:

(A) issue a warrant for the defendant's arrest; and

(B) order the bail agent and the surety to surrender the defendant to the court immediately;

(2) the clerk shall mail notice of the order to both:

(A) the bail agent; and

(B) the surety;

at each of the addresses indicated in the bonds; and

(3) if the defendant later is arrested or otherwise appears:

(A) the court shall order that the surety be released from the bond; and

(B) after the court issues an order under clause (A), the surety's original undertaking shall be reinstated if the surety files a written request for the reinstatement of the undertaking with the court.

This subsection may not be construed to prevent a court from revoking or resetting bail.

(b) The bail agent or surety must:

(1) produce the defendant; or

(2) prove within three hundred sixty-five (365) days:

(A) that the appearance of the defendant was prevented:

(i) by the defendant's illness or death;

(ii) because the defendant was at the scheduled time of appearance or currently is in the custody of the United States, a state, or a political subdivision of the United States or a state; or

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(iii) because the required notice was not given; and

(B) the defendant's absence was not with the consent or connivance of the sureties.

(c) If the bail agent or surety does not comply with the terms of subsection (b) within one hundred twenty (120) days after the mailing of the notice required under subsection (a)(2), a late surrender fee shall be assessed against the bail agent or surety as follows:

(1) If compliance occurs more than one hundred twenty (120) days but not more than one hundred eighty (180) days after the mailing of notice, the late surrender fee is twenty percent (20%) of the face value of the bond.

(2) If compliance occurs more than one hundred eighty (180) days but not more than two hundred ten (210) days after the mailing of notice, the late surrender fee is thirty percent (30%) of the face value of the bond.

(3) If compliance occurs more than two hundred ten (210) days but not more than two hundred forty (240) days after the mailing of notice, the late surrender fee is fifty percent (50%) of the face value of the bond.

(4) If compliance occurs more than two hundred forty (240) days but not more than three hundred sixty-five (365) days after the mailing of notice, the late surrender fee is eighty percent (80%) of the face value of the bond.

(5) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required under subsection (a)(2), the late surrender fee is eighty percent (80%) of the face value of the bond.

All late surrender fees are due as of the date of compliance with subsection (b) or three hundred sixty-five (365) days after the mailing of notice required under subsection (a)(2), whichever is earlier, and shall be paid by the surety when due. If the surety fails to pay, then the late surrender fees shall be paid by the commissioner as provided in subsection (f).

(d) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required by subsection (a)(2), the court shall declare forfeited an amount equal to twenty percent (20%) of the face value of the bond. The court shall immediately enter judgment on the forfeiture, without pleadings and without change of judge or change of venue, and assess against the bail agent or surety all actual costs resulting from the defendant's failure to appear. These costs include jury fees, witness

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1 fees, and any other documented costs incurred by the court.

2 (e) Proceedings relative to the bond, forfeiture of a bond, judgment
3 on the forfeiture, execution of judgment, or stay of proceedings shall
4 be in the court in which the bond was posted. Costs and late surrender
5 ~~fee~~ fees assessed against a bail agent or surety under subsection (c)
6 shall be satisfied without further order of the court as provided in
7 subsection (f). The court may waive the late surrender fee or extend the
8 period for payment beyond the statutorily permitted period, or both, if
9 the following conditions are met:

10 (1) A written request is filed with the court and the prosecutor.

11 (2) The surety or bail agent provides evidence satisfactory to the
12 court that diligent efforts were made to locate the defendant.

13 (f) In the case of an insurer, if the fees, costs, or judgment is not
14 paid, then the clerk shall mail the notice to the commissioner. The
15 commissioner shall:

16 (1) within ten (10) days of receipt of the notice forward a copy by
17 certified mail to the insurer;

18 (2) forty-five (45) days after receipt of the notice from the clerk,
19 if the commissioner has not been notified by the clerk that the
20 fees or judgment or both have been paid, pay the late surrender
21 fee assessment, costs, and any judgment of forfeiture ordered by
22 the court from funds the insurer has on deposit with the
23 department of insurance;

24 (3) upon paying the assessment, costs, and judgment, if any, from
25 funds on deposit, immediately revoke the license of the insurer,
26 if the satisfaction causes the deposit remaining to be less than the
27 amount required by this article; and

28 (4) within ten (10) days after revoking a license, notify the insurer
29 and the insurer's agents and the clerk of each county in Indiana of
30 the revocation and the insurer shall be prohibited from conducting
31 a bail bond business in Indiana until the deposit has been
32 replenished.

33 (g) The notice mailed by the clerk to the commissioner pursuant to
34 the terms of subsection (f) shall include:

35 (1) the date on which the defendant originally failed to appear as
36 provided in the bond;

37 (2) the date of compliance with subsection (b), if compliance was
38 achieved within three hundred sixty-five (365) days after the
39 mailing of the notice required by subsection (a)(2);

40 (3) the amount of the bond;

41 (4) the dollar amount of the late surrender fee due;

42 (5) the amount of costs resulting from the defendant's failure to

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appear; and

(6) if applicable, the dollar amount of the judgment of forfeiture entered by the court.

(h) Any surety on a bond may appeal to the court of appeals as in other civil cases without moving for a new trial, and on the appeal the evidence, if any, shall be reviewed.

(i) Fifty percent (50%) of the late surrender fees collected under this chapter shall be deposited in the police pension trust fund established **or administered** under IC 36-8-10-12 **or IC 36-8-10.1-36** and the remaining fifty percent (50%) shall be deposited in the county extradition fund established under IC 35-33-14.

SECTION 19. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under IC 5-2-12-4 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 5-2-12-4 if committed by an adult to register with the sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this

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chapter.

SECTION 20. IC 33-37-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) The sheriff shall collect from the person who filed the civil action a service of process fee of forty dollars (\$40), in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

(b) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

(c) The county auditor shall deposit fees collected under this section:

(1) in the pension trust established **or administered** by the county under IC 36-8-10-12 **or IC 36-8-10.1-36**; or

(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

SECTION 21. IC 33-37-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 11. (a) This section applies to a county in which there is established **or administered** a pension trust under IC 36-8-10-12 **or IC 36-8-10.1-36**.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 3 or 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate twelve dollars (\$12) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established **or administered** under IC 36-8-10-12 **or IC 36-8-10.1-36**.

SECTION 22. IC 35-33.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) A prosecuting attorney may submit an application for a warrant or an extension to a circuit or superior court where:

(1) the county that the prosecuting attorney represents is located; and

(2) the communication subject to the warrant is anticipated to be sent or received.

The prosecuting attorney may not delegate the responsibility of applying for a warrant or an extension to a deputy prosecuting attorney.

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(b) One (1) of the following persons must serve as a coapplicant for a warrant or an extension under subsection (a):

(1) The superintendent of the state police department.

(2) The police chief of a consolidated city where the communication subject to the warrant is anticipated to be sent or received.

~~(3) The sheriff of the county containing a consolidated city where the communication subject to the warrant is anticipated to be sent or received.~~

(c) Only the state police department may install, operate, or monitor any equipment, device, or instrument for the purpose of intercepting a telephonic or telegraphic communication under this chapter.

SECTION 23. IC 35-38-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7.5. (a) As used in this section, "sexually violent predator" has the meaning set forth in IC 5-2-12-4.5.

(b) This section applies whenever a court sentences a person for a sex offense listed in IC 5-2-12-4(a)(1) through IC 5-2-12-4(a)(10) for which the person is required to register with the sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12-5.

(c) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator. Before making a determination under this section, the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders.

(d) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with the sheriff ~~(or the police chief of a consolidated city)~~ as provided in IC 5-2-12-13(b); and

(2) the court shall send notice of its finding under this subsection to the criminal justice institute.

(e) A person who is found by a court to be a sexually violent predator under subsection (c) may petition the court to consider whether the person is no longer a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after the sentencing court makes its finding under subsection (c). A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is no longer a sexually violent predator, the court shall send notice to the Indiana criminal justice institute that the person is no longer considered a sexually violent predator.

SECTION 24. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.2. As a

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condition of probation for an offender (as defined in IC 5-2-12-4), the court shall:

- (1) require the offender to register with the sheriff ~~(or the police chief of a consolidated city)~~ under IC 5-2-12-5; and
- (2) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the offender obtains written approval from the court.

If the court allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

SECTION 25. IC 35-47-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. As used in this chapter, "public safety officer" means:

- (1) a state police officer;
- (2) a county sheriff;
- (3) a county police officer;
- (4) a correctional officer;
- (5) an excise police officer;
- (6) a county police reserve officer;
- (7) a city police officer;
- (8) a city police reserve officer;
- (9) a conservation enforcement officer;
- (10) a town marshal;
- (11) a deputy town marshal;
- (12) a state university police officer appointed under IC 20-12-3.5;
- (13) a probation officer;
- (14) a firefighter (as defined in IC 9-18-34-1);
- (15) an emergency medical technician; ~~or~~
- (16) a paramedic; **or**

(17) a member of the metropolitan law enforcement agency.

SECTION 26. IC 36-2-13-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2.5. (a) The sheriff, the executive, and the fiscal body may enter into a salary contract for the sheriff.

(b) A sheriff's salary contract must contain the following provisions:

- (1) A fixed amount of compensation for the sheriff in place of fee compensation.
- (2) Payment of the full amount of the sheriff's compensation from the county general fund in the manner that salaries of other county

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officials are paid.

(3) Deposit by the sheriff of the sheriff's tax warrant collection fees (as described in IC 6-8.1-8-3) in the county general fund for use for any general fund purpose.

(4) A procedure for financing prisoners' meals that uses one (1) of the following methods:

(A) The county fiscal body shall make an appropriation in the usual manner from the county general fund to the sheriff for feeding prisoners. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the appropriation. The sheriff shall deposit all meal allowances received under IC 36-8-10-7, **or under IC 36-8-10.1-46 with respect to a county having a consolidated city**, in the county general fund for use for any general fund purpose.

(B) The sheriff shall pay for feeding prisoners from meal allowances received under IC 36-8-10-7 **or under IC 36-8-10.1-46 with respect to a county having a consolidated city**. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the meal allowances. After the expenses of feeding prisoners are paid, the sheriff shall deposit any unspent meal allowance money in the county general fund for use for any general fund purpose.

(5) A requirement that the sheriff shall file an accounting of expenditures for feeding prisoners with the county auditor on the first Monday of January and the first Monday of July of each year.

(6) An expiration date that is not later than the date that the term of the sheriff expires.

(7) Other provisions concerning the sheriff's compensation to which the sheriff, the county executive, and the fiscal body agree.

(c) A salary contract is entered under this section when a written document containing the provisions of the contract is:

(1) approved by resolution of both the executive and the fiscal body; and

(2) signed by the sheriff.

SECTION 27. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain a sex offender web site, known as the Indiana sheriffs' sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least every seven (7) days.

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(b) The sex offender web site must include the following information:

- (1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.
- (2) The home address of every sex offender.
- (3) The information required to be included in the sex offender directory (IC 5-2-12-6).

(c) Every time a sex offender submits a new registration form to the sheriff, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

- (1) The photograph must be full face, front view, with a plain white or off-white background.
- (2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
- (3) The photograph must be in color.
- (4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.
- (5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.
- (6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the sex offender web site.

(e) The sex offender web site may be funded from:

- (1) the jail commissary fund (IC 36-8-10-21 **or IC 36-8-10.1-47**);
- (2) a grant from the criminal justice institute; and
- (3) any other source, subject to the approval of the county fiscal body.

SECTION 28. IC 36-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) A special service district of the consolidated city:

- (1) may sue and be sued;
- (2) may exercise powers of the consolidated city to the extent that those powers are delegated to it by law, but may not issue bonds;

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and

(3) shall provide services to property owners only in the district, unless a law provides otherwise.

(b) A special service district or special taxing district shall be administered under the jurisdiction of a department of the consolidated city **or the county**. The territory of a special service district or special taxing district may be expanded, in the manner prescribed by law, to include territory inside the county that is not originally included in the district.

(c) The city-county legislative body may, by ordinance, expand the territory of a ~~special service~~ **solid waste collection** district ~~subject to the following conditions:~~ **or a fire district as follows:**

(1) In the case of the fire district, the ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the metropolitan development commission for study and recommendation. The petition must be signed by a majority of the landowners, or by owners of land amounting to seventy-five percent (75%) in assessed valuation, in the proposed additional territory. After receiving the petition, the metropolitan development commission shall make findings of fact and recommendations and serve copies of these on the fire chief, the executive of each township affected, and the petitioners at least thirty (30) days before a public hearing before the legislative body. After the public hearing, the legislative body may pass the ordinance only if it determines:

(A) that reasonable and adequate fire protection service can be provided within the additional territory by the consolidated city; and

(B) that expansion of the district is in the public interest.

~~(2) In the case of the police district, the legislative body must hold a public hearing and then may pass the ordinance only if it determines:~~

~~(A) that reasonable and adequate police protection can be provided within the additional territory by the consolidated city; and~~

~~(B) that expansion of the district is in the public interest.~~

~~(3)~~ **(2)** In the case of the solid waste collection district:

(A) the ordinance may not be considered unless a petition to include additional territory in the district is first submitted to the works board for study and recommendation;

(B) the petition must be signed by at least ten (10) interested residents in the proposed additional territory;

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(C) after receiving the petition, the works board shall:

(i) set a date for a public hearing;

(ii) publish notice of the hearing in accordance with IC 5-3-1; and

(iii) upon hearing the matter, determine whether the territory should be added to the district;

(D) if the works board recommends that the territory should be added to the district, the legislative body must hold a public hearing and then may pass the ordinance; **and**

(E) territory in the solid waste collection district may also be removed from the district in the manner prescribed by this subdivision.

SECTION 29. IC 36-8-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 6. (a) This section applies to:

(1) all municipalities, **except a consolidated city; and**

(2) **a county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1.**

(b) **As used in this section, "member of the metropolitan law enforcement agency" refers to a member of the metropolitan law enforcement agency established under IC 36-8-10.1.**

~~(b)~~ (c) A warrant of search or arrest, issued by any judge, may be executed in the municipality by:

(1) any municipal police officer; **or**

(2) **a member of the metropolitan law enforcement agency;** subject to the laws governing arrest and bail.

~~(c)~~ (d) The police officers of a municipality **or a member of the metropolitan law enforcement agency** shall:

(1) serve all process within the municipality **or the consolidated city** issuing from the city or town court;

(2) arrest, without process, all persons who within view violate statutes, take them before the court having jurisdiction of the offense, and retain them in custody until the cause of the arrest has been investigated;

(3) enforce municipal ordinances in accordance with IC 36-1-6;

(4) suppress all breaches of the peace within their knowledge and may call to their aid the power of the municipality **or the consolidated city** and pursue and commit to jail persons guilty of crimes;

(5) serve all process issued by:

(A) the legislative body of the municipality **or the consolidated city;**

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- 1 **(B) any committee of it, the legislative body of the**
 2 **municipality or the consolidated city; or by**
 3 **(C) any of the executive departments of the municipality or**
 4 **the consolidated city;**
 5 (6) serve the city or town court and assist the bailiff in preserving
 6 order in the court; and
 7 (7) convey prisoners to and from the county jail or station houses
 8 of the municipality **or the consolidated city** for arraignment or
 9 trial in the city or town court or to the place of imprisonment
 10 under sentence of the court.
 11 SECTION 30. IC 36-8-3-20 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 20. (a) This
 13 section applies to **the following:**
 14 **(1) Counties, and including a county having a consolidated city.**
 15 **(2) Towns. as well as**
 16 **(3) Cities.**
 17 (b) A unit may provide by ordinance for any number of police
 18 reserve officers.
 19 (c) Police reserve officers shall be appointed by the same authority
 20 that appoints regular members of the department.
 21 (d) Police reserve officers may be designated by another name
 22 specified by ordinance.
 23 (e) Police reserve officers may not be members of the regular police
 24 department but have all of the same police powers as regular members,
 25 except as limited by the rules of the department. Each department may
 26 adopt rules to limit the authority of police reserve officers.
 27 (f) To the extent that money is appropriated for a purpose listed in
 28 this subsection, police reserve officers may receive any of the
 29 following:
 30 (1) A uniform allowance.
 31 (2) Compensation for time lost from other employment because
 32 of court appearances.
 33 (3) Insurance for life, accident, and sickness coverage.
 34 (4) In the case of county police reserve officers compensation for
 35 lake patrol duties that:
 36 **(A) the county sheriff in a county not having a consolidated**
 37 **city; or**
 38 **(B) the police chief in a county having a consolidated city;**
 39 assigns and approves for compensation.
 40 (g) Police reserve officers are not eligible to participate in any
 41 pension program provided for regular members of the department.
 42 (h) A police reserve officer may not be appointed until ~~he~~ **the police**

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1 **reserve officer** has completed the training and probationary period
2 specified by rules of the department.

3 (i) A police reserve officer appointed by the department after June
4 30, 1993, may not:

5 (1) make an arrest;

6 (2) conduct a search or a seizure of a person or property; or

7 (3) carry a firearm;

8 unless the police reserve officer successfully completes a pre-basic
9 course under IC 5-2-1-9(f).

10 (j) A police reserve officer may be covered by the medical treatment
11 and burial expense provisions of the worker's compensation law
12 (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases
13 law (IC 22-3-7). If compensability of the injury is an issue, the
14 administrative procedures of IC 22-3-2 through IC 22-3-6 and
15 IC 22-3-7 shall be used to determine the issue.

16 (k) A police reserve officer carrying out lake patrol duties under this
17 chapter is immune from liability under IC 34-30-12, notwithstanding
18 the payment of compensation to the officer.

19 SECTION 31. IC 36-8-3-21 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 21. (a) Except as
21 provided in subsection (b), this section applies to all units, **including**
22 **a county having a consolidated city that establishes a metropolitan**
23 **law enforcement agency under IC 36-8-10.1.**

24 (b) This subsection does not apply to the appointment of a fire chief
25 under a waiver under IC 36-8-4-6(c) or the appointment of a police
26 chief under a waiver under IC 36-8-4-6.5(c). An individual may not be
27 employed by a unit after May 31, 1985, as a member of the unit's fire
28 department or as a member of the unit's police department unless the
29 individual meets the conditions for membership in the 1977 fund.

30 (c) Notwithstanding IC 36-8-1-9, the executive of the unit may
31 request that the 1977 fund accept the following individuals in the 1977
32 fund under IC 36-8-8-7(h):

33 (1) A fire chief appointed under a waiver under IC 36-8-4-6(c).

34 (2) A police chief appointed under a waiver under
35 IC 36-8-4-6.5(c).

36 **(d) This subsection applies to a county having a consolidated**
37 **city that establishes a metropolitan law enforcement agency under**
38 **IC 36-8-10.1. The executive of the consolidated city may request**
39 **that the 1977 fund accept in the 1977 fund under IC 36-8-8-7(m)**
40 **the sheriff of the county whose initial term of office begins after**
41 **December 31, 2005.**

42 SECTION 32. IC 36-8-3.5-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) **Except as provided in subsection (b)**, this chapter applies to each municipality or township that has a full-time paid police or fire department.

(b) This chapter does not apply to a metropolitan law enforcement agency established under IC 36-8-10.1.

(c) A municipality may exercise the power of establishing a merit system for its police or fire department under this chapter or by ordinance adopted under IC 36-1-4-14. A township may exercise the power of establishing a merit system for its fire department under this chapter or by resolution under IC 36-1-4-14. This chapter does not affect merit systems established:

(1) by ordinance under IC 36-1-4-14, except as provided by subsection ~~(e)~~; **(g)**;

(2) by resolution under IC 36-1-4-14, except as provided by subsection ~~(f)~~; **(h)**; or

(3) by a prior statute, except as provided by subsection ~~(b)~~; **(d)**.

~~(b)~~ **(d)** If a city had a merit system for its police or fire department under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2, IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29, IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

(1) be a person of good moral character; and

(2) except for a member of a fire department having a merit system established under IC 19-1-37.5, not be an active member of a police or fire department or agency.

~~(e)~~ **(e)** After December 31, 1984, the legislative body also may repeal the ordinance described in subsection ~~(b)~~; **(d)**, but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend the ordinance under subsection ~~(b)~~; **(d)**.) After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this

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1 chapter.

2 ~~(d)~~ (f) If a city had a merit system for its police or fire department
3 under a prior statute but fails to retain that system under subsection ~~(b)~~,
4 (d), the city legislative body shall, before July 1, 1983, pass an
5 ordinance to establish a new merit system under section 3 of this
6 chapter. If the new merit system is approved as provided by section 4
7 of this chapter, it takes effect as provided by that section. However, if
8 the new merit system is rejected under section 4 of this chapter, within
9 thirty (30) days the city legislative body shall adopt an ordinance to
10 retain the prior merit system. The prior merit system remains in effect
11 until the new merit system takes effect, after which time all members
12 of the department are entitled to the same ranks and pay grades the
13 members held under the prior system, subject to changes made in
14 accordance with this chapter.

15 ~~(e)~~ (g) An ordinance adopted under IC 36-1-4-14 to establish a
16 police or fire merit system must include a provision under which the
17 commission, or governing board of the merit system, has at least
18 one-third (1/3) of its members elected by the active members of the
19 department as prescribed by section 8 of this chapter. Each elected
20 commission member must be a person of good moral character who is
21 not an active member of a police or fire department or agency. If an
22 ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the
23 ordinance must be amended to include this requirement.

24 ~~(f)~~ (h) This chapter does not prevent a township or other unit that
25 has adopted a merit system under section 3 of this chapter from later
26 amending or deleting any provisions of the merit system contained in
27 this chapter. However, the merit system must include a provision under
28 which the commission has at least one-third (1/3) of its members
29 elected by the active members of the department, as set forth in section
30 8 of this chapter and a provision that incorporates the requirements of
31 section 6(a) of this chapter. This subsection does not require the
32 legislative body to establish a new merit system when it exercises its
33 power to amend under this subsection.

34 SECTION 33. IC 36-8-4-1 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) **Except as**
36 **provided in subsection (b), this chapter applies to all cities.**

37 (b) **This chapter does not apply to a metropolitan law**
38 **enforcement agency established under IC 36-8-10.1, except that**
39 **section 6.5(a) and 6.5(b) of this chapter apply to the chief of a**
40 **metropolitan law enforcement agency.**

41 SECTION 34. IC 36-8-5-1 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) This

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chapter applies to **the following:**

(1) All municipalities. ~~In addition,~~

(2) A county having a consolidated city that establishes a metropolitan law enforcement agency under IC 36-8-10.1.

(b) Section 2 of this chapter applies to any other political subdivision that employs full-time, fully paid firefighters.

SECTION 35. IC 36-8-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, in second and third class cities, and in towns that have established a board of metropolitan police commissioners.

(b) A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the police officer:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(c) A police officer is covered by this chapter and not by IC 36-8-8 if ~~he:~~ **the police officer:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925 fund.

(d) A police matron is covered by this chapter and not by IC 5-10.3 or IC 36-8-8 if ~~she:~~ **the police matron:**

(1) was hired before May 1, 1977;

(2) is a member of a police department in a second or third class city; and

(3) is employed as a police matron on March 31, 1996.

(e) A police officer who:

(1) is covered by this chapter before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency established under IC 36-8-10.1;

is covered by this chapter after December 31, 2005, and the police officer's service as a member of the metropolitan law enforcement agency is considered active service under this chapter for the purpose of determining the police officer's eligibility for benefits under this chapter.

SECTION 36. IC 36-8-7.5-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) This chapter applies to pension benefits for members of police departments hired before May 1, 1977, by a consolidated city.

(b) For purposes of chapter "police department" means the:

(A) police department of the consolidated city; or

(B) metropolitan law enforcement agency established under IC 36-8-10.1;

as the context requires.

~~(b)~~ **(c)** A police officer with twenty (20) years of service is covered by this chapter and not by IC 36-8-8 if:

(1) the officer was hired before May 1, 1977;

(2) the officer did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) the officer was not a member of the 1953 fund because:

(A) ~~his~~ **the officer's** employment was on a temporary or emergency status under a statute in effect before February 25, 1953;

(B) ~~he~~ **the officer** failed to pass a five (5) year physical requirement under such a statute; or

(C) ~~he~~ **the officer** was a war veteran without pension status;

(4) the officer submitted to a physical medical examination, if required by the local board, and the results were satisfactory; and

(5) the officer was accepted by the local board as a member of the 1953 fund upon payment of all dues required for ~~his~~ **the officer's** entire time as a member of the police department.

~~(c)~~ **(d)** A police officer is covered by this chapter and not by IC 36-8-8 if ~~he~~ **the officer**:

(1) was hired before May 1, 1977; and

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981).

~~(d)~~ **(e)** A police officer is covered by this chapter and not by IC 36-8-8 if ~~he~~ **the officer**:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 (repealed September 1, 1981);

(3) is a regularly appointed member of the police department;

(4) is a member of the 1953 fund;

(5) was employed on a temporary or emergency status before regular employment; and

(6) paid into the 1953 fund by not later than January 1, 1968, all dues for the period ~~he~~ **the officer** was on temporary or emergency status.

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(f) A police officer who:

(1) is covered by this chapter before January 1, 2006; and

(2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency established under IC 36-8-10.1;

is covered by this chapter after December 31, 2005, and the officer's service as a member of the metropolitan law enforcement agency is considered active service under this chapter for the purpose of determining the officer's eligibility for benefits under this chapter.

(g) In computing the length of active service rendered by any police officer for the purpose of determining the expiration of a period of twenty (20) years of active service, all of the following periods are counted:

(1) All of the time the officer performed the duties of ~~his~~ **the officer's** position in active service.

(2) Vacation time or periods of leave of absence with whole or part pay.

(3) Periods of leave of absence without pay that were necessary on account of physical or mental disability.

(4) Periods of disability for which the officer will receive or has received any disability benefit.

(h) In computing the term of service there is not included any of the following:

(1) Periods during which the police officer was or is suspended or on leave of absence without pay.

(2) Periods during which the officer was not in active service on account of ~~his~~ **the officer's** resignation from the department.

(3) Time served as a special police officer, a merchant police officer, or private police officer.

SECTION 37. IC 36-8-7.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the police special service district is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1953 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board

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1 during the next fiscal year to defray the expenses and obligations
 2 incurred and that will be incurred by the local board in making the
 3 payments prescribed by this chapter to retired members, to members
 4 who are eligible and expect to retire during the ensuing fiscal year, and
 5 to the dependents of deceased members.

6 (b) At the time when the estimates are prepared and submitted, the
 7 local board shall also prepare and submit a certified statement showing:

8 (1) the estimated number of beneficiaries from the 1953 fund
 9 during the ensuing fiscal year in each of the various
 10 classifications of beneficiaries as prescribed in this chapter, and
 11 the names and amount of benefits being paid to those actively on
 12 the list of beneficiaries at that time;

13 (2) the name, age, and length of service of each member of the
 14 police department who is eligible to and expects to retire during
 15 the ensuing fiscal year, and the monthly and yearly amounts of the
 16 payment that the member will be entitled to receive; and

17 (3) the name and age of each dependent of a member of the police
 18 department who is then receiving benefits, the date on which the
 19 dependent commenced drawing benefits, and the date on which
 20 the dependent will cease to be a dependent by reason of attaining
 21 the age limit prescribed by this chapter, and the monthly and
 22 yearly amounts of the payments to which each of the dependents
 23 is entitled.

24 (c) After the amounts of receipts and disbursements shown in the
 25 itemized estimate are fixed and approved by the executive, fiscal
 26 officer, legislative body and other bodies, as provided by law for other
 27 municipal funds, the total receipts shall be deducted from the total
 28 expenditures stated in the itemized estimate, and the amount of the
 29 excess shall be paid by the police special service district in the same
 30 manner as other expenses of the district are paid. The legislative body
 31 shall levy a tax ~~and in the police special service district in the~~
 32 **amount and at the rate that is necessary to produce sufficient**
 33 **revenue to pay the operational expenses required under**
 34 **IC 36-8-10.1-17 and the deficit described in subsection (a). The**
 35 **part of the money derived from the levy equal to the deficit shall,**
 36 **when collected, be credited exclusively to the 1953 fund. The tax shall**
 37 **be levied in the amount and at the rate that is necessary to produce**
 38 **sufficient revenue to equal the deficit.** Notwithstanding any other law,
 39 neither the county board of tax adjustment nor the department of local
 40 government finance may reduce the **part of the tax levy equal to the**
 41 **deficit.**

42 SECTION 38. IC 36-8-7.5-12 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to provide a member of the police department who retires from active duty after twenty (20) or more years of active duty an annual pension equal to fifty percent (50%) of the salary of a first class patrolman in the police department, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service; or

(2) for a member who retires after December 31, 1985, one percent (1%) of the first class patrolman's salary for each six (6) months of service;

of the retired member over twenty (20) years. The pension may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman. The pensions shall be computed on an annual basis but shall be paid in twelve (12) equal monthly installments. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased.

(c) If a member retires upon ~~his~~ **the member's** voluntary application after twenty (20) years or more of active service, ~~he~~ **the member** then relinquishes all rights to other benefits or pensions for disability during the time of ~~his~~ **the member's** retirement.

(d) After retirement the member is not required to render further services on the police department and is no longer subject to the rules of the police department, unless a national emergency has been declared by the local board, on application by the executive, ~~the safety board,~~ and the ~~police~~ chief of the ~~city.~~ **metropolitan law enforcement agency established under IC 36-8-10.1.** Upon declaration of such an emergency, the retired member, if physically able, shall return to active duty under the rank ~~he~~ **the member** attained at the time of ~~his~~ **the member's** retirement, and if ~~he~~ **the member** refuses to return to active duty upon being declared physically fit, ~~he~~ **the member** forfeits ~~his~~ **the member's** right to receive ~~his~~ **the member's** pension until the time ~~he~~ **the member** returns to active duty and again is retired or discharged from service.

(e) No pension, annuity, or benefit provided by this chapter is payable by the local board except upon written application by the member of the police department, or the surviving spouse or other dependent, upon the forms and with the information required by the local board.

SECTION 39. IC 36-8-8-1 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996; ~~and~~

(4) a park ranger who:

(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

and

(5) a full-time police officer:

(A) who:

(i) is covered by this chapter before January 1, 2006; and

(ii) after December 31, 2005, becomes a member of the metropolitan law enforcement agency established under IC 36-8-10.1;

is covered by this chapter after December 31, 2005, and the officer's service as a member of the metropolitan law enforcement agency is considered active service under this chapter for the purpose of determining the officer's eligibility for benefits under this chapter; or

(B) who is hired or rehired after January 1, 2006, by the metropolitan law enforcement agency established by IC 36-8-10.1-16;

except as provided by section 7 of this chapter.

SECTION 40. IC 36-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this chapter, "employer" means:

(1) a municipality that established a 1925 or 1953 fund or that

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participates in the 1977 fund under section 3 or 18 of this chapter;

or

(2) a unit that established a 1937 fund or that participates in the 1977 fund under section 3 or 18 of this chapter; or

(3) a consolidated city that consolidated units that:

(A) established a 1925 or 1953 fund; or

(B) participated in the 1977 fund;

before the units' consolidation into the metropolitan law enforcement agency established by IC 36-8-10.1-16.

SECTION 41. IC 36-8-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), ~~and~~ (h), **(k), and (l):**

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires ~~him~~ **the police officer or firefighter** chooses to contribute to the 1977 fund the amount necessary to amortize ~~his~~ **the police officer's or firefighter's** prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for ~~his~~ **the police officer's or firefighter's** prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if ~~he~~ **the police officer or firefighter:**

(1) was hired before May 1, 1977;

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(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he~~ **the police officer of firefighter:**

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if ~~he~~ **the police officer of firefighter:**

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, ~~he~~ **the police officer of firefighter** is entitled to receive credit for all ~~his~~ **the police officer's of firefighter's** years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the

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1 1977 fund under this subsection is subject to sections 18 and 21 of this
2 chapter.

3 (h) A police officer or firefighter does not become a member of the
4 1977 fund and is not covered by this chapter if the individual was
5 appointed as:

6 (1) a fire chief under a waiver under IC 36-8-4-6(c); or

7 (2) a police chief under a waiver under IC 36-8-4-6.5(c);

8 unless the executive of the unit requests that the 1977 fund accept the
9 individual in the 1977 fund and the individual previously was a
10 member of the 1977 fund.

11 (i) A police matron hired or rehired after April 30, 1977, and before
12 July 1, 1996, who is a member of a police department in a second or
13 third class city on March 31, 1996, is a member of the 1977 fund.

14 (j) A park ranger who:

15 (1) completed at least the number of weeks of training at the
16 Indiana law enforcement academy or a comparable law
17 enforcement academy in another state that were required at the
18 time the park ranger attended the Indiana law enforcement
19 academy or the law enforcement academy in another state;

20 (2) graduated from the Indiana law enforcement academy or a
21 comparable law enforcement academy in another state; and

22 (3) is employed by the parks department of a city having a
23 population of more than one hundred twenty thousand (120,000)
24 but less than one hundred fifty thousand (150,000);

25 is a member of the fund.

26 **(k) Notwithstanding any other provision of this chapter, a police**
27 **officer:**

28 **(1) who is a member of the 1977 fund before January 1, 2006;**

29 **(2) whose employer is consolidated into the metropolitan law**
30 **enforcement agency under IC 36-8-10.1; and**

31 **(3) who, after the consolidation, becomes an employee of the**
32 **metropolitan law enforcement agency under IC 36-8-10.1;**

33 **is a member of the 1977 fund without meeting the requirements**
34 **under sections 19 and 21 of this chapter.**

35 **(l) Notwithstanding any other provision of this chapter, a police**
36 **officer who:**

37 **(1) before January 1, 2006, provides law enforcement services**
38 **for an entity in a consolidated city;**

39 **(2) has the provision of those services consolidated into the**
40 **metropolitan law enforcement agency under IC 36-8-10.1;**
41 **and**

42 **(3) after the consolidation, becomes an employee of the**

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metropolitan law enforcement agency under IC 36-8-10.1;
is a member of the 1977 fund without meeting the requirements
under sections 19 and 21 of this chapter.

(m) A police officer who is a member of the 1977 fund under
subsection (k) or (l):

(1) may not be:

(A) retired for purposes of section 10 of this chapter; or

(B) disabled for purposes of section 12 of this chapter;
solely because of a change in employer described in subsection
(k) or (l); and

(2) shall receive credit for any service as a member of the
1977 fund before the consolidation described in subsection (k)
or (l) for the purpose of determining the police officer's or
firefighter's eligibility for benefits under this chapter.

(n) Notwithstanding any other provision of this chapter, upon
the request of the executive of a consolidated city to the PERF
board, a sheriff of a county having a consolidated city may become
a member of the 1977 fund without meeting:

(1) the age limitations under subsection (a); or

(2) the requirements under section 19 of this chapter.

SECTION 42. IC 36-8-10-1 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) Except as
provided in subsection (b), this chapter applies to all counties.

(b) Except as provided in section 9 of this chapter, this chapter
does not apply to a county having a consolidated city that
establishes a metropolitan law enforcement agency under
IC 36-8-10.1.

SECTION 43. IC 36-8-10-9 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 9. (a) This
section applies to a county having a consolidated city that
establishes a metropolitan law enforcement agency under
IC 36-8-10.1. The members of the metropolitan law enforcement
agency have the powers listed in this section that are not powers
given to the members of the metropolitan law enforcement agency
under IC 36-8-3-6.

(a) (b) Each member of the department:

(1) has general police powers;

(2) shall arrest, without process, all persons who commit an
offense within his the member's view, take them before the court
having jurisdiction, and detain them in custody until the cause of
the arrest has been investigated;

(3) shall suppress all breaches of the peace within his the

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member's knowledge, with authority to call to ~~his~~ **the member's** aid the power of the county;

(4) shall pursue and commit to the jail of the county all felons;

(5) may execute all process directed to the sheriff by legal authority;

(6) shall attend upon and preserve order in all courts of the county;

(7) shall guard prisoners in the county jail;

(8) shall serve all process directed to the sheriff from a court or from the county executive according to law; and

(9) shall take photographs, fingerprints, and other identification data as shall be prescribed by the sheriff of persons taken into custody for felonies or misdemeanors.

~~(b)~~ (c) A person who:

(1) refuses to be photographed;

(2) refuses to be fingerprinted;

(3) withholds information; or

(4) gives false information;

as prescribed in subsection ~~(a)(9)~~, **(b)(9)**, commits a Class C misdemeanor.

SECTION 44. IC 36-8-10-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10.6. (a) The sheriff may appoint as a special deputy any person who is employed by a governmental entity as defined in IC 35-41-1 or private employer, the nature of which employment necessitates that the person have the powers of a law enforcement officer. During the term of ~~his~~ **the person's** appointment and while ~~he~~ **the person** is fulfilling the specific responsibilities for which the appointment is made, a special deputy has the powers, privileges, and duties of a county police officer under this chapter, subject to any written limitations and specific requirements imposed by the sheriff and signed by the special deputy. A special deputy is subject to the direction of the sheriff and shall obey the rules and orders of the department. A special deputy may be removed by the sheriff at any time, without notice and without assigning any cause.

(b) The sheriff shall fix the prerequisites of training, education, and experience for special deputies, subject to the minimum requirements prescribed by this subsection. Applicants must:

(1) be twenty-one (21) years of age or older;

(2) never have been convicted of a felony or a misdemeanor involving moral turpitude;

(3) be of good moral character; and

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(4) have sufficient training to insure the proper performance of their authorized duties.

(c) Except as provided in subsection (d), a special deputy shall wear a uniform the design and color of which is easily distinguishable from the uniforms of the Indiana state police, the regular county police force, and all municipal police and fire forces located in the county.

(d) The sheriff may permit a special deputy to wear the uniform of the regular county police force if the special deputy:

(1) has successfully completed the minimum basic training requirements under IC 5-2-1;

(2) is periodically assigned by the sheriff to duties of a regular county police officer; and

(3) is an employee of the department.

The sheriff may revoke permission for the special deputy to wear the uniform of the regular county police force at any time without cause or notice.

(e) The sheriff may also appoint one (1) legal deputy, who must be a member of the Indiana bar. The legal deputy does not have police powers. The legal deputy may continue to practice law. However, neither the legal deputy nor any attorney in partnership with ~~him~~ **the legal deputy** may represent a defendant in a criminal case.

(f) The sheriff, for the purpose of guarding prisoners in the county jail,

~~(1) in counties not having a consolidated city, may appoint special deputies to serve as county jail guards. and~~

~~(2) in counties having a consolidated city, shall appoint only special deputies to serve as county jail guards.~~

This subsection does not affect the rights or liabilities accrued by any county police officer assigned to guard the jail before August 31, 1982.

SECTION 45. IC 36-8-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's

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1 duties.

2 (c) Joint contributions shall be made to the trust fund:

3 (1) either by:

4 (A) the department through a general appropriation provided
5 to the department;

6 (B) a line item appropriation directly to the trust fund; or

7 (C) both; and

8 (2) by an employee beneficiary through authorized monthly
9 deductions from the employee beneficiary's salary or wages.

10 However, the employer may pay all or a part of the contribution
11 for the employee beneficiary.

12 Contributions through an appropriation are not required for plans
13 established or modifications adopted after June 30, 1989, unless the
14 establishment or modification is approved by the county fiscal body.

15 (d) ~~For a county not having a consolidated city,~~ The monthly
16 deductions from an employee beneficiary's wages for the trust fund
17 may not exceed six percent (6%) of the employee beneficiary's average
18 monthly wages. ~~For a county having a consolidated city, the monthly~~
19 ~~deductions from an employee beneficiary's wages for the trust fund~~
20 ~~may not exceed seven percent (7%) of the employee beneficiary's~~
21 ~~average monthly wages.~~

22 (e) The minimum annual contribution by the department must be
23 sufficient, as determined by the pension engineers, to prevent
24 deterioration in the actuarial status of the trust fund during that year. If
25 the department fails to make minimum contributions for three (3)
26 successive years, the pension trust terminates and the trust fund shall
27 be liquidated.

28 (f) If during liquidation all expenses of the pension trust are paid,
29 adequate provision must be made for continuing pension payments to
30 retired persons. Each employee beneficiary is entitled to receive the net
31 amount paid into the trust fund from the employee beneficiary's wages,
32 and any remaining sum shall be equitably divided among employee
33 beneficiaries in proportion to the net amount paid from their wages into
34 the trust fund.

35 (g) If a person ceases to be an employee beneficiary because of
36 death, disability, unemployment, retirement, or other reason, the
37 person, the person's beneficiary, or the person's estate is entitled to
38 receive at least the net amount paid into the trust fund from the person's
39 wages, either in a lump sum or monthly installments not less than the
40 person's pension amount.

41 (h) If an employee beneficiary is retired for old age, the employee
42 beneficiary is entitled to receive a monthly income in the proper

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1 amount of the employee beneficiary's pension during the employee
2 beneficiary's lifetime.

3 (i) To be entitled to the full amount of the employee beneficiary's
4 pension classification, an employee beneficiary must have contributed
5 at least twenty (20) years of service to the department before
6 retirement. Otherwise, the employee beneficiary is entitled to receive
7 a pension proportional to the length of the employee beneficiary's
8 service.

9 (j) This subsection does not apply to a county that adopts an
10 ordinance under section 12.1 of this chapter. For an employee
11 beneficiary who retires before January 1, 1985, a monthly pension may
12 not exceed by more than twenty dollars (\$20) one-half (1/2) the amount
13 of the average monthly wage received during the highest paid five (5)
14 years before retirement. However, in counties where the fiscal body
15 approves the increases, the maximum monthly pension for an employee
16 beneficiary who retires after December 31, 1984, may be increased by
17 no more or no less than two percent (2%) of that average monthly wage
18 for each year of service over twenty (20) years to a maximum of
19 seventy-four percent (74%) of that average monthly wage plus twenty
20 dollars (\$20). For the purposes of determining the amount of an
21 increase in the maximum monthly pension approved by the fiscal body
22 for an employee beneficiary who retires after December 31, 1984, the
23 fiscal body may determine that the employee beneficiary's years of
24 service include the years of service with the sheriff's department that
25 occurred before the effective date of the pension trust. For an employee
26 beneficiary who retires after June 30, 1996, the average monthly wage
27 used to determine the employee beneficiary's pension benefits may not
28 exceed the monthly minimum salary that a full-time prosecuting
29 attorney was entitled to be paid by the state at the time the employee
30 beneficiary retires.

31 (k) The trust fund may not be commingled with other funds, except
32 as provided in this chapter, and may be invested only in accordance
33 with statutes for investment of trust funds, including other investments
34 that are specifically designated in the trust agreement.

35 (l) The trustee receives and holds as trustee all money paid to it as
36 trustee by the department, the employee beneficiaries, or by other
37 persons for the uses stated in the trust agreement.

38 (m) The trustee shall engage pension engineers to supervise and
39 assist in the technical operation of the pension trust in order that there
40 is no deterioration in the actuarial status of the plan.

41 (n) Within ninety (90) days after the close of each fiscal year the
42 trustee, with the aid of the pension engineers, shall prepare and file an

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1 annual report with the department and the state insurance department.

2 The report must include the following:

3 (1) Schedule 1. Receipts and disbursements.

4 (2) Schedule 2. Assets of the pension trust listing investments by
5 book value and current market value as of the end of the fiscal
6 year.

7 (3) Schedule 3. List of terminations, showing the cause and
8 amount of refund.

9 (4) Schedule 4. The application of actuarially computed "reserve
10 factors" to the payroll data properly classified for the purpose of
11 computing the reserve liability of the trust fund as of the end of
12 the fiscal year.

13 (5) Schedule 5. The application of actuarially computed "current
14 liability factors" to the payroll data properly classified for the
15 purpose of computing the liability of the trust fund as of the end
16 of the fiscal year.

17 (o) No part of the corpus or income of the trust fund may be used or
18 diverted to any purpose other than the exclusive benefit of the members
19 and the beneficiaries of the members.

20 SECTION 46. IC 36-8-10.1 IS ADDED TO THE INDIANA CODE
21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2005]:

23 **Chapter 10.1. Metropolitan Law Enforcement Agency in a**
24 **Consolidated City**

25 **Sec. 1. This chapter applies to a county having a consolidated**
26 **city.**

27 **Sec. 2. As used in this chapter, "board" refers to the chief's**
28 **merit board established by section 20 of this chapter.**

29 **Sec. 3. As used in this chapter, "chief" refers to the chief of the**
30 **metropolitan law enforcement agency appointed by the city**
31 **executive.**

32 **Sec. 4. As used in this chapter, "commission" refers to the**
33 **metropolitan police commission established by section 21 of this**
34 **chapter.**

35 **Sec. 5. As used in this chapter, "department" refers to the**
36 **sheriff's department.**

37 **Sec. 6. As used in this chapter, "eligible employee" means:**

38 (1) the sheriff; or

39 (2) a county police officer;

40 **before January 1, 2006.**

41 **Sec. 7. As used in this chapter, "employee beneficiary" means**
42 **an eligible employee who, before January 1, 2006, completed an**

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1 application to become an employee beneficiary and who has had
2 the proper deductions made from the eligible employee's wages as
3 required in the pension trust agreement.

4 Sec. 8. As used in this chapter, "member of the metropolitan law
5 enforcement agency" or "member of the agency" means an
6 individual performing law enforcement services as a full-time, fully
7 paid employee of the metropolitan law enforcement agency.

8 Sec. 9. As used in this chapter, "metropolitan law enforcement
9 agency" or "agency" refers to the metropolitan law enforcement
10 agency established by section 16 of this chapter as the law
11 enforcement division of the department.

12 Sec. 10. As used in this chapter, "net amount paid into the trust
13 fund from wages of an employee beneficiary" means the amount
14 of money actually paid from the wages of the employee beneficiary,
15 plus interest at the rate of three percent (3%) compounded
16 annually and less a sum including interest at the same rate, paid
17 from the trust fund to the employee beneficiary or to a
18 governmental fund for the credit or benefit of the employee
19 beneficiary.

20 Sec. 11. As used in this chapter, "pension engineers" means
21 technical consultants qualified to:

- 22 (1) supervise; and
- 23 (2) assist in the:
 - 24 (A) maintenance of; and
 - 25 (B) operation of;

26 a pension trust on an actuarially sound basis.

27 Sec. 12. As used in this chapter, "pension trust" means the trust
28 established by the department before January 1, 2006, under
29 IC 36-8-10-12.

30 Sec. 13. As used in this chapter, "trust fund" means the assets
31 of the pension trust and consists of:

- 32 (1) voluntary contributions from the department;
- 33 (2) money paid from the wages of employee beneficiaries;
- 34 (3) income and proceeds derived from the investment of
35 subdivisions (1) and (2); and
- 36 (4) other payments or contributions made to the pension trust.

37 Sec. 14. As used in this chapter, "trustee" refers to the trustee
38 of the pension trust who may be:

- 39 (1) one (1) or more corporate trustees; or
- 40 (2) the treasurer of the county;

41 serving under bond.

42 Sec. 15. The department is responsible for all the following for

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the consolidated city and the county under the direction and control of the sheriff:

- (1) County jail operations and facilities.
- (2) Emergency communications.
- (3) Security for buildings and property owned by:
 - (A) the consolidated city;
 - (B) the county; or
 - (C) both the consolidated city and county.
- (4) Service of court documents.
- (5) Sex offender registration under IC 5-2-12.

Sec. 16. (a) The metropolitan law enforcement agency is established.

(b) Except as provided by section 18 of this chapter, after December 31, 2005, the metropolitan law enforcement agency, under the direction and control of the police chief, shall provide all law enforcement services for the consolidated city and county.

(c) After December 31, 2005:

- (1) the members of the police department of the consolidated city cease employment with the consolidated city; and
- (2) the county police officers cease employment as county police officers;

to become members of the metropolitan law enforcement agency under this chapter.

(d) A member of the police department of a consolidated city who:

- (1) was a member of the 1953 fund or the 1977 fund before January 1, 2006; and
- (2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency under this chapter;

remains a member of the 1953 fund or the 1977 fund. The member retains, after December 31, 2005, credit in the 1953 fund or the 1977 fund for service earned while a member of the police department of the consolidated city and continues to earn service credit in the 1953 fund or the 1977 fund as a member of the metropolitan law enforcement agency for purposes of determining the member's eligibility for benefits from the 1953 fund or the 1977 fund.

(e) A member of the county police force who:

- (1) was an employee beneficiary of the sheriff's pension trust before January 1, 2006; and
- (2) after December 31, 2005, becomes a member of the metropolitan law enforcement agency under this chapter;

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remains an employee beneficiary of the pension trust under this chapter. The member retains, after December 31, 2005, credit in the pension trust for service earned while a member of the county police force and continues to earn service credit in the pension trust as a member of the metropolitan law enforcement agency for purposes of determining the member's eligibility for benefits from the pension trust.

(f) For purposes of this chapter, whenever a certain length of service with the metropolitan law enforcement agency is required for a particular appointment, a member of the agency with service as:

(1) a member of the police department of the consolidated city; or

(2) a county police officer;

before January 1, 2006, shall have that service included in determining the member's total length of service with the agency.

(g) This subsection does not apply to an individual who becomes a member of the metropolitan law enforcement agency under subsection (d). An individual may not be appointed or reappointed as a member of the metropolitan law enforcement agency after December 31, 2005, unless the individual:

(1) is less than thirty-six (36) years of age; and

(2) passes:

(A) the aptitude, physical agility, and physical examination required by the local board; and

(B) the statewide baseline standards required by IC 36-8-8-19.

A person who is appointed or reappointed to the metropolitan law enforcement agency after December 31, 2005, is a member of the 1977 fund.

Sec. 17. (a) Subject to commission review, the chief shall recommend the number and salary of the members of the metropolitan law enforcement agency. The city-county legislative body shall finally determine the budget and salaries of the agency.

(b) The consolidated city and the county may levy property taxes to provide for the payment of the expenses for the operation of the metropolitan law enforcement agency.

(c) To provide for the payment of the expenses for the operation of the metropolitan law enforcement agency, the consolidated city may levy property taxes on taxable property located within the area served by the agency in the consolidated city and the county.

(d) The police special service district established under

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IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the metropolitan law enforcement agency:

(1) within; or

(2) that directly benefit:

the territory of the police special service district. These amounts are in addition to the amounts levied by the police special service district to fund pension obligations under IC 36-8-7.5-10.

Sec. 18. (a) After December 31, 2005, the metropolitan law enforcement agency may not provide law enforcement services to an excluded city unless the conditions in subsection (b) are met.

(b) In order for the metropolitan law enforcement agency to provide law enforcement services to an excluded city, all the following must occur:

(1) The legislative body of the excluded city and the city-county legislative body must adopt substantially similar ordinances authorizing:

(A) the extension of the territory of the metropolitan law enforcement agency to include the excluded city; and

(B) the consolidation of the police department of the excluded city into the metropolitan law enforcement agency.

(2) The ordinances described in subdivision (1) must:

(A) specify the effective date of the consolidation; and

(B) set forth the conditions of the consolidation, including a transition plan for the consolidation approved by the commission.

(c) After the effective date of the consolidation described in subsection (b), the metropolitan law enforcement agency shall provide law enforcement services within the territory of the excluded city.

(d) Whenever an excluded city consolidates its police department into the metropolitan law enforcement agency under subsection (b), the local board for the 1925 fund of the excluded city is abolished and its services are terminated not later than the effective date of the consolidation.

Sec. 19. (a) The members of the metropolitan law enforcement agency shall perform law enforcement duties as:

(1) assigned by the chief; or

(2) required by law.

(b) A member of the agency shall reside within:

(1) the county; or

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(2) a county contiguous to the county.

(c) Subsection (b) does not apply to a member of the agency who:

(1) before January 1, 2006, was a member of the police department of a consolidated city;

(2) after December 31, 2005, became a member of the agency; and

(3) resided outside the county on January 1, 1975.

(d) The county shall furnish the chief and the members of the metropolitan law enforcement agency with the uniforms or other clothing that they need to perform their duties. However, after one (1) year of service in the metropolitan law enforcement agency, a member of the agency may be required by the county to furnish and maintain the member's own uniform clothing upon payment to the member by the county of an annual cash allowance of at least two hundred dollars (\$200).

Sec. 20. (a) The chief's merit board is established.

(b) After December 31, 2005, the merit board and merit system of:

(1) the department; and

(2) the police department of a consolidated city;

are abolished, and the duties of those boards are transferred and assumed by the board, unless otherwise provided in this chapter.

(c) The board consists of seven (7) members as follows:

(1) Four (4) members appointed by the chief.

(2) One (1) member appointed by the commission.

(3) Two (2) members elected by a majority vote of the members of the bargaining unit of the metropolitan law enforcement agency.

(d) An active member of the metropolitan law enforcement agency may not serve on the board.

(e) The term of office for a member:

(1) appointed; or

(2) elected;

to the board is four (4) years, beginning on the date the member is qualified and assumes office, or for the remainder of an unexpired term. Members of the board serve during their respective terms and until their successors have been appointed and qualified. Before January 1, 2006, the initial members of the board must be appointed or elected as provided in subsection (c).

(f) Not more than:

(1) two (2) of the members appointed by the chief; or

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(2) one (1) of the members elected by the members of the metropolitan law enforcement agency; may belong to the same political party.

(g) A member of the board must reside in the county.

(h) A member of the board may be removed for cause duly adjudicated by declaratory judgment of the superior court of the county.

(i) A member of the board is entitled to receive reimbursement from the county for actual expenses incurred while serving as a member.

(j) As soon as practicable after they are appointed and elected, the members of the board shall meet upon the call of the chief and organize by electing a president and a secretary from among their membership.

(k) Four (4) members of the board constitute a quorum for the transaction of business.

(l) The board must hold regular monthly meetings throughout the year as is necessary to transact the business of the department.

Sec. 21. (a) The metropolitan police commission is established.

(b) The commission consists of the following four (4) members:

(1) The director of the department of public safety who serves as the commission's president.

(2) One (1) member appointed annually by the mayor who serves at the pleasure of the mayor.

(3) One (1) member appointed annually by the city-county legislative body who serves at the pleasure of the city-county legislative body.

(4) The chief who serves as a nonvoting member of the commission.

(c) The initial members of the commission must be appointed not later than August 1, 2005.

(d) The commission is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

Sec. 22. (Before January 1, 2006, the commission shall undertake the following:

(1) Approve a metropolitan law enforcement agency transition plan to integrate the law enforcement functions and personnel of:

(A) the sheriff's department; and

(B) the police department of the consolidated city; into the metropolitan law enforcement agency.

(2) Approve the following for the metropolitan law

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enforcement agency:

- (A) The management and organizational structure of the agency.
- (B) A system of regulations and orders for the agency.
- (C) The agency's patrol areas.
- (D) The agency's patrol levels.
- (E) The agency's investigative units and special details.

(3) Serve on the transition advisory board established by section 24 of this chapter and approve the items listed in that section.

(4) Exercise all powers necessary, convenient, or appropriate to perform:

- (A) the duties listed in subdivisions (1) through (3); or
- (B) any other duties necessary to complete the transition to the metropolitan law enforcement agency by January 1, 2006.

Sec. 23. (a) After December 31, 2005, the commission has the following powers and duties:

- (1) Serve as a permanent oversight body for the metropolitan law enforcement agency.
- (2) Approve large procurements for the metropolitan law enforcement agency.
- (3) Approve the initiation and implementation of resource allocation studies for the metropolitan law enforcement agency.
- (4) Consult with the chief concerning the creation and operation of an internal affairs division for the metropolitan law enforcement agency.
- (5) Exercise all powers necessary, convenient, or appropriate to:

- (A) perform the duties listed in subdivisions (1) through (5); and
- (B) provide oversight for the metropolitan law enforcement agency.

(b) In addition to the powers and duties under subsection (a), the commission may do the following:

- (1) For any matter relating to the operation of the metropolitan law enforcement agency:
 - (A) hold public meetings or public hearings; and
 - (B) make recommendations.
- (2) Review and comment on any regulation or order promulgated by the chief concerning the metropolitan law

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enforcement agency.

Sec. 24. (a) The transition advisory board is established.

(b) The transition advisory board consists of the following members:

(1) The members of the commission who serve as ex officio members of the advisory board.

(2) Other members as determined and appointed by the chief.

(c) The members of the transition advisory board must be appointed not later than September 1, 2005.

(d) Before January 1, 2006, the chief must consult with the transition advisory board and determine the following for the metropolitan law enforcement agency:

(1) The design and color of the agency's uniforms.

(2) The design and color of vehicle markings for all vehicles used by the agency.

(3) The standard equipment issued to members of the agency.

(4) The official name of the agency.

(e) The chief's determinations under subsection (d) are subject to the approval of the commission.

Sec. 25. (a) The sheriff may appoint a prison matron for the county. The sheriff sets the qualifications for the position. Except as provided in subsection (b), the sheriff has complete hiring authority over the position of prison matron.

(b) A person who is a member of the metropolitan law enforcement agency immediately before being appointed as prison matron is entitled to the discipline and removal procedures under section 33 of this chapter before:

(1) being reduced in grade to a rank below the rank that the person held before being appointed as prison matron; or

(2) removal from the department.

(c) The sheriff may employ assistant prison matrons, if necessary.

(d) The prison matron and the assistant prison matrons, if any, receive, search, and care for all:

(1) female prisoners; and

(2) boys less than fourteen (14) years of age;

who are committed to or detained in the county jail, municipal lockup, or other detention center in the county.

(e) The prison matron and assistant matrons:

(1) are members of the department;

(2) have the powers and duties of members of the department; and

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(3) are entitled to the same salary that other members of the department of the same rank, grade, or position are paid.

Sec. 26. (a) Except as provided in subsection (b), the sheriff has complete hiring authority over the position of chief deputy.

(b) A chief deputy who was a member of the metropolitan law enforcement agency immediately before being hired as chief deputy is entitled to the discipline and removal procedures under section 33 of this chapter before:

(1) being reduced in grade to a rank below the rank that the person held before being hired as chief deputy; or

(2) removal from the department.

Sec. 27. (a) The sheriff may appoint additional deputies or assistants if an emergency arises that requires them for performing the duties under section 15 of this chapter.

(b) The mayor shall determine the number and salaries of deputies or assistants to be appointed in an emergency. The mayor shall provide compensation and necessary expenses for deputies or assistants from the general fund of the county without a specific appropriation. Expenses shall be paid after the appointed persons file sworn vouchers with the mayor detailing their expenses.

(c) The deputies or assistants have the same powers that sheriffs have under statute.

(d) When the emergency ends, the mayor may reduce the number of deputies or assistants to the number that the circumstances require for the public welfare.

Sec. 28. (a) If a person who is a member of the metropolitan law enforcement agency becomes sheriff, either by election or by appointment, upon the expiration of the person's term as sheriff and upon the person's written application, the board shall appoint the person to the rank in the agency that the person held at the time of the person's election or appointment as sheriff, if there is a vacancy in the agency.

(b) If the person, during the person's tenure as sheriff, has qualified, in accordance with the promotion procedure prescribed by the board in its rules, for a rank in the agency that is higher than the rank the person held before election or appointment as sheriff, the board shall, upon the expiration of the person's term as sheriff, appoint the person to the rank for which the person has qualified under the promotion procedure, if there is a vacancy in that rank.

Sec. 29. (a) Each member of the metropolitan law enforcement agency has:

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- (1) the powers set forth in IC 36-8-3-6; and
- (2) the powers set forth in IC 36-8-10-9 that are not set forth in IC 36-8-3-6.

(b) A person who:

- (1) refuses to be photographed;
- (2) refuses to be fingerprinted;
- (3) withholds information; or
- (4) gives false information;

as prescribed in IC 36-8-10-9(a)(9), commits a Class C misdemeanor.

(c) Members of the department have the powers:

- (1) prescribed by the sheriff; or
- (2) as set forth in this chapter.

Sec. 30. (a) The chief, with the approval of the board, shall establish a classification of ranks, grades, and positions for members of the metropolitan law enforcement agency.

(b) For each rank, grade, and position, the chief, with the approval of the board, shall:

- (1) set reasonable standards of qualifications; and
- (2) fix the prerequisites of:
 - (A) training;
 - (B) education; and
 - (C) experience.

(c) The chief, with the approval of the board, shall devise and administer examinations designed to test applicants for the qualifications required for the respective ranks, grades, or positions. After these examinations, the chief and the board shall jointly prepare a list naming only those applicants who, in the opinion of both the chief and the board, best meet the prescribed standards and prerequisites. The chief only appoints members of the metropolitan law enforcement agency from among the persons whose names appear on this list. All members appointed to the metropolitan law enforcement agency under this chapter are on probation for one (1) year after the date of appointment.

(d) The chief, in the chief's sole discretion, may:

- (1) establish a temporary administrative rank or position within the agency; and
- (2) appoint to and remove from a temporary administrative rank or position a member of the metropolitan law enforcement agency who meets the requirements in subsection (e).

(e) Except as provided by section 16 of this chapter, a member

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1 who has served as a member of the agency at least five (5) years
 2 before the appointment and holds the merit rank of at least
 3 lieutenant is eligible for appointment to a temporary
 4 administrative rank or position described in subsection (d). A
 5 member retains the rank, grade, or position awarded under
 6 subsection (c) while serving in a temporary administrative rank or
 7 position. A temporary administrative rank or position established
 8 under subsection (d) does not diminish or reduce the number and
 9 classifications of the existing merit ranks within the metropolitan
 10 law enforcement agency. Subsection (d) and this subsection may
 11 not be construed to limit, modify, annul, or otherwise affect a
 12 collective bargaining agreement.

13 (f) The chief, with the approval of the board, shall establish
 14 written rules and regulations governing the discipline of members
 15 of the metropolitan law enforcement agency. Rules and regulations
 16 established by a chief under this subsection must conform to the
 17 disciplinary procedure required by section 33 of this chapter.

18 Sec. 31. (a) Except as provided in subsection (b), the board shall
 19 give a preference for employment according to the following
 20 priority:

21 (1) A war veteran who has been honorably discharged from
 22 the United States armed forces.

23 (2) A person whose mother or father was a:

24 (A) firefighter of a unit;

25 (B) municipal police officer;

26 (C) county police officer; or

27 (D) member of the metropolitan law enforcement agency;
 28 who died in the line of duty (as defined in IC 5-10-10-2).

29 (b) A person described in subsection (a) may not receive a
 30 preference for employment unless the person:

31 (1) applies; and

32 (2) meets all employment requirements prescribed by:

33 (A) law, including physical and age requirements; and

34 (B) the metropolitan law enforcement agency.

35 Sec. 32. (a) The sheriff may appoint as a special deputy any
 36 person who is employed by:

37 (1) a governmental entity (as defined in IC 35-41-1); or

38 (2) a private employer;

39 if the nature of the employment necessitates that the person have
 40 the powers of a law enforcement officer.

41 (b) During the term of a sheriff's appointment and while the
 42 special deputy is fulfilling the specific responsibilities for which the

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1 appointment is made, a special deputy has the powers, privileges,
 2 and duties of a member of the department under this chapter,
 3 subject to any written limitations and specific requirements
 4 imposed by the sheriff and signed by the special deputy.

5 (c) A special deputy is subject to the direction of the sheriff and
 6 shall obey the rules and orders of the department.

7 (d) A special deputy may be removed by the sheriff at any time,
 8 without the sheriff providing notice or assigning any cause.

9 (e) The sheriff shall fix the prerequisites of training, education,
 10 and experience for special deputies, subject to the minimum
 11 requirements prescribed by this subsection. Applicants must:

12 (1) be at least twenty-one (21) years of age;

13 (2) never have been convicted of:

14 (A) a felony; or

15 (B) a misdemeanor involving moral turpitude;

16 (3) be of good moral character; and

17 (4) have sufficient training to insure the proper performance
 18 of their authorized duties.

19 (f) Except as provided in subsection (g), a special deputy shall
 20 wear a uniform the design and color of which is easily
 21 distinguishable from the uniforms of the Indiana state police, the
 22 metropolitan law enforcement agency, and all municipal police and
 23 fire forces located in the county.

24 (g) The sheriff may permit a special deputy to wear the uniform
 25 of the department if the special deputy:

26 (1) has successfully completed the minimum basic training
 27 requirements under IC 5-2-1;

28 (2) is periodically assigned by the sheriff to duties of a
 29 member of the department; and

30 (3) is an employee of the department.

31 The sheriff may revoke permission for the special deputy to wear
 32 the uniform of the department at any time without cause or notice.

33 (h) The sheriff may also appoint one (1) legal deputy, who must
 34 be a member of the Indiana bar. The legal deputy does not have
 35 police powers. The legal deputy may continue to practice law.
 36 Neither the legal deputy nor any attorney in partnership with the
 37 legal deputy may represent a defendant in a criminal case.

38 (i) The sheriff, for the purpose of guarding prisoners in the
 39 county jail, shall appoint only special deputies to serve as county
 40 jail guards. This subsection does not affect the rights or liabilities
 41 accrued by any county police officer assigned to guard the jail
 42 before August 31, 1982.

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1 Sec. 33. (a) The chief may dismiss, demote, or temporarily
 2 suspend a member of the metropolitan law enforcement agency for
 3 cause after giving the member written notice of the charges and
 4 after a fair public hearing before the board. The decision of the
 5 board is reviewable in the superior court of the county. Written
 6 notice of the charges and hearing must be delivered by certified
 7 mail to the member to be disciplined at least fourteen (14) days
 8 before the date set for the hearing. The member may be
 9 represented by counsel. The board shall make specific findings of
 10 fact in writing to support its decision.

11 (b) The chief may temporarily suspend a member with or
 12 without pay for a period not to exceed fifteen (15) days without a
 13 hearing before the board. Before suspending a member under this
 14 subsection, the chief shall give the member written notice of the
 15 charges of misconduct.

16 (c) A member of the metropolitan law enforcement agency may
 17 not be dismissed, demoted, or temporarily suspended because of
 18 political affiliation or after the member's probationary period,
 19 except as provided in this section.

20 (d) A member of the metropolitan law enforcement agency may:

- 21 (1) be a candidate for elective office and serve in that office if
- 22 elected;
- 23 (2) be appointed to an office and serve in that office if
- 24 appointed; and
- 25 (3) except when in uniform or on duty, solicit votes or
- 26 campaign funds for the member or others.

27 (e) A member on probation may be dismissed by the chief
 28 without the right to a hearing.

29 (f) The board has subpoena powers enforceable by the superior
 30 court of the county for hearings under this section.

31 (g) An appeal under subsection (a) is taken by filing in court, not
 32 later than thirty (30) days after the date the decision is rendered,
 33 a verified complaint stating in a concise manner the general nature
 34 of the charges against the member of the metropolitan law
 35 enforcement agency, the decision of the board, and a demand for
 36 the relief asserted by the member.

37 (h) The member must also file a bond that:

- 38 (1) guarantees the appeal will be prosecuted to a final
- 39 determination; and
- 40 (2) the plaintiff will pay all costs only if the court finds that
- 41 the board's decision should be affirmed.

42 The bond must be approved as bonds for costs are approved in

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1 other cases.

2 (i) The county must be named as the sole defendant and the
3 plaintiff shall have a summons issued as in other cases against the
4 county. The:

5 (1) board;

6 (2) members of the board individually;

7 (3) commission; or

8 (4) members of the commission individually;

9 are not parties defendant to the complaint, but all are bound by
10 service upon the county and the judgment rendered by the court.

11 (j) The court tries all appeals. An appeal is heard de novo only
12 if there are new issues related to the charges upon which the board
13 based its decision. Within ten (10) days after the service of
14 summons, the board shall file in court a complete written
15 transcript of the papers, entries, and other parts of the record
16 relating to the case being appealed. The board, if requested to do
17 so, must permit the person affected, or the person's agent, to
18 inspect these documents before the appeal is filed. The court shall
19 review the record and decision of the board on appeal.

20 (k) The court shall make specific findings and state the
21 conclusions of law upon which its decision is made. If the court
22 finds that the decision of the board should in all respects be
23 affirmed, its judgment should state the court's finding. If the court
24 finds that the decision of the board should not in all respects be
25 affirmed, the court shall make a general finding, setting out
26 sufficient facts to show the nature of the proceeding and the court's
27 decision. The court shall either:

28 (1) reverse the decision of the board; or

29 (2) order the decision of the board to be modified.

30 (l) The final judgment of the court may be appealed by either
31 party. Upon the final disposition of the appeal by the courts, the
32 clerk shall certify to the board the final judgment of the court and
33 file a copy of the judgment with the board, which shall conform its
34 decisions and records to the order and judgment of the court. If the
35 decision is reversed or modified, the board shall pay to the
36 prevailing party any salary or wages:

37 (1) that were withheld from the party pending the appeal; and

38 (2) to which the party is entitled under the judgment of the
39 court.

40 (m) Either party is allowed a change of venue from the court or
41 a change of judge in the same manner as those changes are allowed
42 in civil cases. The rules of trial procedure govern in all matters of

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1 procedure during the appeal that are not otherwise provided for by
2 this section.

3 (n) An appeal takes precedence over other pending litigation,
4 and the court shall try and determine the appeal as soon as
5 practical.

6 Sec. 34. (a) As used in this section, "appointing authority"
7 means the chief and the board.

8 (b) When it is necessary for financial reasons for the appointing
9 authority to reduce by layoff the number of members of the
10 metropolitan law enforcement agency, members are laid off in
11 reverse hiring order, with the last member appointed to the agency
12 being the first to be laid off, until the desired level of employment
13 is achieved.

14 (c) If the metropolitan law enforcement agency's membership
15 is increased, the members of the agency who have been laid off
16 under subsection (b) are reinstated before any new member is
17 appointed to the agency. Members are reinstated in reverse of the
18 order in which the members were laid off with the last member
19 laid off from the agency being the first to be reinstated.

20 (d) A member who is laid off shall keep the appointing authority
21 advised of the member's current address. The appointing authority
22 shall inform a member of the member's reinstatement by written
23 notice sent by certified mail to the member's last known address.

24 (e) Not later than twenty (20) calendar days after the date the
25 notice of reinstatement is sent under subsection (d), the member
26 shall advise the appointing authority whether the member:

- 27 (1) accepts reinstatement; and
28 (2) will commence employment on the date specified in the
29 notice.

30 (f) All reinstatement rights granted to a member under this
31 section terminate on the earlier of:

- 32 (1) the date the member fails to accept reinstatement within
33 the time specified in subsection (e); or
34 (2) three (3) years after the date on which a member's layoff
35 begins.

36 Sec. 35. (a) As used in this section, "care" includes:

- 37 (1) medical and surgical care;
38 (2) medicines and laboratory, curative, and palliative agents
39 and means;
40 (3) x-ray, diagnostic, and therapeutic service, including
41 service during the recovery period; and
42 (4) hospital and special nursing care if the physician or

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surgeon in charge considers it necessary for proper recovery.

(b) After deducting expenditures paid by an insurance or worker's compensation program, the county shall pay for the care of the following persons:

(1) A member of the metropolitan law enforcement agency who:

(A) suffers an injury; or

(B) contracts an illness;

while the member is on duty or while the member is off duty and is responding to an offense or a reported offense.

(2) A jail employee of the department who:

(A) suffers an injury; or

(B) contracts an illness;

while the employee is on duty.

(c) The county shall pay the expenditures required by subsection (b) from the general fund of the county.

Sec. 36. (a) This section does not apply to a member of the metropolitan law enforcement agency who is appointed after December 31, 2005. A member of the agency who is appointed after December 31, 2005, is a member of the 1977 fund under section 16 of this chapter.

(b) Before January 1, 2006, the agency shall amend the pension trust established and operated under IC 36-8-10-12 to provide that, effective January 1, 2006, the pension trust is operated under this section. The agency and the trustee may not modify the pension trust under this section without the approval of the city-county legislative body which shall not reduce or diminish the benefits of the employee beneficiaries set forth in the pension trust.

(c) After December 31, 2005, the agency and the trustee shall continue to operate in an actuarially sound manner the pension trust for the exclusive benefit of the employee beneficiaries.

Sec. 37. (a) The normal retirement age for an employee beneficiary may not be later than seventy (70) years of age.

(b) The chief may retire an employee beneficiary who is otherwise eligible for retirement if the board finds that the employee beneficiary is not physically or mentally capable of performing the employee beneficiary's duties.

(c) Contributions to the trust fund are made by:

(1) the agency through:

(A) a general appropriation provided to the agency;

(B) a line item appropriation directly to the trust fund; or

(C) both clauses (A) and (B); and

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(2) an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. The agency may pay all or part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for modifications adopted after June 30, 1989, unless the modification is approved by the city-county legislative body.

(d) The monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

(e) The agency's minimum annual contribution must be sufficient, as determined by the pension engineers, so that the actuarial status of the trust fund does not deteriorate during that year. If the minimum contributions are not made for three (3) successive years, the pension trust terminates and the trust fund is liquidated.

(f) If all expenses of the pension trust are paid during liquidation, adequate provision must be made for continuing pension payments to retired employee beneficiaries. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages. Any remaining amount must be equitably divided among employee beneficiaries in proportion to the net amount each employee beneficiary paid into the trust fund from the employee beneficiary's wages.

(g) If a person is no longer an employee beneficiary because the person dies, becomes disabled, leaves employment with the agency before retirement, retires, or is no longer an employee beneficiary for any other reason:

- (1) the person;
- (2) the person's beneficiary; or
- (3) the person's estate;

is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or in monthly installments not less than the amount the person is entitled to receive as a pension.

(h) If an employee beneficiary reaches the normal retirement age for the employee beneficiary, the employee beneficiary is entitled to receive during the employee beneficiary's lifetime a pension in a monthly amount calculated under subsections (i) through (m).

(i) To receive an unreduced pension amount, an employee beneficiary must have contributed at least twenty (20) years of

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1 service to the department and the agency before retirement. If the
 2 employee beneficiary's service to the department and the agency
 3 is less than twenty (20) years, the employee beneficiary is entitled
 4 to receive a pension proportional to the length of the employee
 5 beneficiary's service.

6 (j) For an employee beneficiary who retired before January 1,
 7 1985, a monthly pension may not exceed by more than twenty
 8 dollars (\$20) one-half (1/2) the amount of the average monthly
 9 wage received by the employee beneficiary during the highest paid
 10 five (5) years before retirement.

11 (k) For an employee beneficiary who retires after December 31,
 12 1984, the monthly pension described in subsection (j) may be
 13 increased by two percent (2%) of the employee beneficiary's
 14 average monthly wage for each year of service over twenty (20)
 15 years contributed by the employee beneficiary to a maximum of
 16 seventy-four percent (74%) of the employee beneficiary's average
 17 monthly wage plus twenty dollars (\$20).

18 (l) For purposes of determining the amount of an increase in the
 19 monthly pension under subsection (k) approved by the city-county
 20 legislative body for an employee beneficiary who retires after
 21 December 31, 1984, the city-county legislative body may determine
 22 that the employee beneficiary's years of service include the years
 23 of service with the department that occurred before the effective
 24 date of the pension trust.

25 (m) For an employee beneficiary who retires after June 30,
 26 1996, the average monthly wage used to determine the employee
 27 beneficiary's pension benefits may not exceed the monthly
 28 minimum salary paid by the state to a full-time prosecuting
 29 attorney at the time the employee beneficiary retires.

30 (n) The trust fund may not be commingled with other funds,
 31 except as provided in this chapter, and may be invested only in
 32 accordance with statutes for investment of trust funds, including
 33 other investments that are specifically designated in the trust
 34 agreement.

35 (o) The trustee receives and holds as trustee all money paid to
 36 it as trustee by the agency, the employee beneficiaries, or by other
 37 persons for the uses stated in the trust agreement.

38 (p) The trustee shall engage pension engineers to supervise and
 39 assist in the technical operation of the pension trust in order that
 40 there is no deterioration in the actuarial status of the trust fund.

41 (q) Not later than ninety (90) days after the close of each fiscal
 42 year, the trustee, with the aid of the pension engineers, shall

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prepare and file an annual report with the agency and the state insurance department. The report must include the following:

- (1) Schedule 1. Receipts and disbursements.
- (2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.
- (3) Schedule 3. List of terminations, showing the cause and amount of refund.
- (4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.
- (5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(r) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

Sec. 38. This section applies to a sheriff who is an eligible employee under this chapter and is not a member of the 1977 fund. The sheriff may participate in the pension trust in the same manner as a county police officer who is an eligible employee under this chapter. In addition, a sheriff who does not participate in the pension trust may make a payment to the pension trust equal to the total contributions the sheriff would have paid had the sheriff been participating in the pension trust while a sheriff, plus interest at three percent (3%) compounded annually. A sheriff who makes this payment is entitled to credit for the years of service as sheriff for all purposes of the pension trust.

Sec. 39. (a) The agency may establish and operate a death benefit program for the payment of death benefits to deceased employee beneficiaries. The agency may provide these benefits by:

- (1) creating a reserve account;
- (2) obtaining group life insurance; or
- (3) both subdivisions (1) and (2).

The agency may not establish or modify a death benefit program without the approval of the city-county legislative body.

(b) Benefits payable under a group life insurance policy established under subsection (a) must be in reasonable amounts. Benefits payable from a reserve account established under subsection (a) may not exceed twenty-five thousand dollars

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1 (\$25,000).

2 **Sec. 40. (a) The agency may establish and operate a disability**
 3 **benefit program for the payment of disability expense**
 4 **reimbursement and pensions to disabled employee beneficiaries.**
 5 **The agency may provide these benefits by:**

- 6 (1) creating a reserve account;
 7 (2) obtaining disability insurance coverage; or
 8 (3) both subdivisions (1) and (2).

9 **The agency may not establish or modify a disability benefit**
 10 **program without the approval of the city-county legislative body.**

11 (b) **Benefits payable as a result of line of duty activities,**
 12 **including a disability presumed incurred in the line of duty under**
 13 **IC 5-10-13, must be in reasonable amounts. Monthly benefits**
 14 **payable as a result of other activities may not exceed the amount**
 15 **of the pension to which the employee beneficiary would have been**
 16 **entitled had the employee beneficiary been employed by the agency**
 17 **until normal retirement age.**

18 **Sec. 41. (a) The agency may establish and operate a dependent's**
 19 **pension benefit for the payment of pensions to dependent parents,**
 20 **surviving spouses, and dependent children less than eighteen (18)**
 21 **years of age of former employee beneficiaries. The agency may**
 22 **provide these benefits by:**

- 23 (1) creating a reserve account;
 24 (2) obtaining appropriate insurance coverage; or
 25 (3) both subdivisions (1) and (2).

26 **The agency may not establish or modify a dependent's pension**
 27 **benefit without the approval of the city-county legislative body.**

28 (b) **The monthly pension payable to dependent parents or**
 29 **surviving spouses must be at least two hundred dollars (\$200) for**
 30 **each month during the parent's or the spouse's lifetime or until the**
 31 **spouse remarries. The monthly pension payable to each dependent**
 32 **child must be at least thirty dollars (\$30) for each child and with**
 33 **the last payment made in the month before the child becomes**
 34 **eighteen (18) years of age.**

35 (c) **To be eligible for a benefit under this section, the surviving**
 36 **spouse of an employee beneficiary must be married to the**
 37 **employee beneficiary at the time of the employee beneficiary's**
 38 **retirement or death in service.**

39 **Sec. 42. (a) The city-county legislative body may provide to**
 40 **eligible retired employee beneficiaries or eligible disabled employee**
 41 **beneficiaries, or both:**

- 42 (1) **an annual cost of living payment; or**

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(2) an ad hoc cost of living payment. The amount of the ad hoc cost of living payment under this subdivision is not an increase in the base pension benefit calculated under section 37 of this chapter.

(b) In the case of an annual cost of living payment granted under subsection (a)(1), the pension engineers shall determine each year the amount of the payment under this subsection. The pension engineers shall determine if there has been an increase in the Consumer Price Index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the Consumer Price Index for January, February, and March of the payment year with the same three (3) month period of the preceding year. If there has been an increase, the increase is stated as a percentage of the arithmetic mean for the three (3) month period for the year preceding the payment year (the adjustment percentage). The adjustment percentage is rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%).

(c) In the case of a cost of living payment granted under subsection (a)(2), the amount of the cost of living payment is determined by the city-county legislative body and may be:

- (1) a percentage increase, not to exceed the percentage determined under subsection (b); or
- (2) a fixed dollar amount.

(d) A payment authorized under this section is made to each authorized retired or disabled employee beneficiary and may be made annually, semiannually, quarterly, or monthly.

(e) A cost of living payment granted under this section must be funded by a direct appropriation or by maintaining a fully funded, actuarially sound trust fund.

(f) A cost of living payment granted under this section is applicable only to retired or disabled employee beneficiaries who are at least fifty-five (55) years of age.

(g) No provision of this section may be part of an ordinance or agreement concerning collective bargaining. No provision of this section may be subject to bargaining under any statute, ordinance, or agreement.

Sec. 43. (a) As used in this section, "dies in the line of duty" has the meaning set forth in IC 5-10-10-2.

(b) This section applies to the survivors of an eligible employee who dies in the line of duty.

(c) The department shall offer to provide and pay for health

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insurance coverage for the eligible employee's surviving spouse and for each natural child, stepchild, or adopted child of the eligible employee:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the county to an eligible employee, the health insurance provided to a surviving spouse or child under this subsection must be equal in coverage to that offered to an eligible employee. The offer to provide and pay for health insurance coverage must remain open for as long as there is a surviving spouse or as long as a natural child, a stepchild, or an adopted child of the eligible employee is eligible for coverage under subdivision (1), (2), or (3).

Sec. 44. (a) The death benefit, the disability benefit, and the dependents' pension may be operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the agency and the trustee for the exclusive benefit of employee beneficiaries and their dependents.

(b) The trustee receives and holds as trustee for the uses and purposes set out in the supplementary trust agreement all money paid to it as trustee by the agency or by other persons.

(c) The trustee may, under the terms of the supplementary trust agreement, pay the necessary premiums for insurance or pay benefits, or both, as provided by this chapter.

(d) The trustee shall hold, invest, and reinvest the police benefit fund in investments that are permitted by statute for the investment of trust funds and other investments that are specifically designated in the supplementary trust agreement.

(e) Within ninety (90) days after the close of the fiscal year, the trustee, with the assistance of the pension engineers, shall prepare and file with the agency and the state insurance department a detailed annual report showing receipts, disbursements, and case histories, and making recommendations regarding the necessary contributions required to keep the program in operation. Contributions by:

- (1) the county police force before January 1, 2006; and
- (2) the metropolitan law enforcement agency after December

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1 31, 2005;
2 are provided in the general appropriations to the agency. However,
3 these contributions are not required for modifications made after
4 January 1, 1989, unless the modifications were approved by the
5 city-county legislative body.

6 Sec. 45. (a) A person entitled to an interest in or a share of a
7 pension or benefit from the trust funds may not, before the actual
8 payment:

- 9 (1) anticipate;
10 (2) sell;
11 (3) assign;
12 (4) pledge;
13 (5) mortgage; or
14 (6) otherwise dispose of or encumber;
15 the person's interest or share.

16 (b) In addition, a person's interest, share, pension, or benefit is
17 not, before the actual payment:

- 18 (1) liable for the debts or liabilities of the person;
19 (2) subject to attachment, garnishment, levy, or sale on
20 judicial proceedings; or
21 (3) transferable, voluntarily or involuntarily.

22 (c) The trustee may expend the sums from the funds that the
23 trustee considers proper for necessary expenses.

24 Sec. 46. (a) The state examiner of the state board of accounts
25 shall fix the exact amount per meal that the sheriff receives for
26 feeding the prisoners in the sheriff's custody. Subject to the
27 maximum meal allowance provided in this section, the state
28 examiner shall increase the amount per meal that the sheriff
29 receives as follows:

- 30 (1) Increase the amount per meal by a percentage that does
31 not exceed the percent of increase in the United States
32 Department of Labor Consumer Price Index during the year
33 preceding the year in which an increase is established.
34 (2) Increase the amount per meal above the amount
35 determined under subdivision (1) if the sheriff furnishes to the
36 state examiner sufficient documentation to prove that the
37 sheriff cannot provide meals at the amount per meal that is
38 determined under subdivision (1).

39 The amount must be fixed by April 15 each year and takes effect
40 immediately upon approval. The allowance may not exceed two
41 dollars (\$2) per person per meal. The allowance shall be paid out
42 of the general fund of the county after the sheriff submits to the

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1 mayor an itemized statement, under oath, showing the names of the
 2 prisoners, the date that each was imprisoned in the county jail, and
 3 the number of meals served to each prisoner.

4 (b) Notwithstanding subsection (a), IC 36-2-13-2.5(b)(4) through
 5 IC 36-2-13-2.5(b)(5), and IC 36-2-13-2.8(b), the county shall pay to
 6 feed the county prisoners through an appropriation in the usual
 7 manner by the city-county legislative body. The appropriation shall
 8 be expended by the sheriff under the direction of the mayor.
 9 Neither the sheriff nor the sheriff's officers, deputies, or employees
 10 may make a profit as a result of the appropriation.

11 Sec. 47. (a) A jail commissary fund is established, referred to in
 12 this section as "the fund". The fund is separate from the general
 13 fund, and money in the fund does not revert to the general fund.

14 (b) The sheriff, or the sheriff's designee, shall deposit all money
 15 from commissary sales into the fund, which the sheriff shall keep
 16 in a depository designated under IC 5-13-8.

17 (c) The sheriff, or the sheriff's designee, at the sheriff's
 18 discretion and without appropriation by the city-county legislative
 19 body, may disburse money from the fund for:

- 20 (1) merchandise for resale to inmates through the
- 21 commissary;
- 22 (2) expenses of operating the commissary, including, but not
- 23 limited to, facilities and personnel;
- 24 (3) special training in law enforcement for employees of the
- 25 department;
- 26 (4) equipment installed in the county jail;
- 27 (5) equipment, including vehicles and computers, computer
- 28 software, communication devices, office machinery and
- 29 furnishings, cameras and photographic equipment, animals,
- 30 animal training, holding and feeding equipment and supplies,
- 31 or attire used by a member of the department in the course of
- 32 the member's official duties;
- 33 (6) an activity provided to maintain order and discipline
- 34 among the inmates of the county jail;
- 35 (7) an activity or program of the department intended to
- 36 reduce or prevent occurrences of criminal activity, including
- 37 the following:
- 38 (A) substance abuse;
- 39 (B) child abuse;
- 40 (C) domestic violence;
- 41 (D) drinking and driving; and
- 42 (E) juvenile delinquency;

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(8) expenses related to the establishment, operation, or maintenance of the sex offender web site under IC 36-2-13-5.5; or

(9) any other purpose that benefits the department that is mutually agreed upon by the city-county legislative body and the sheriff.

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).

(d) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall semiannually provide a copy of this record of receipts and disbursements to the city-county legislative body. The semiannual reports are due on July 1 and December 31 of each year.

Sec. 48. (a) The sheriff shall hold in trust separately for each inmate any money received from that inmate or from another person on behalf of that inmate.

(b) If the inmate or the inmate's legal guardian requests a disbursement from the inmate's trust fund, the sheriff may make a disbursement for the personal benefit of the inmate, including a disbursement to the county jail commissary.

(c) Upon discharge or release of an inmate from the county jail, the sheriff shall pay to that inmate or the inmate's legal guardian any balance remaining in the inmate's trust fund.

(d) If an inmate is found guilty of intentionally destroying or losing county property after a hearing conducted under IC 11-11-5-5, the sheriff may disburse from the inmate's trust fund or commissary account sums of money as reimbursement to the county for the inmate's intentional destruction or loss of county property, including, but not limited to, clothing, bedding, and other nondisposable items issued by the county to the inmate. Before disbursing money under this subsection, the sheriff shall adopt rules to administer this procedure.

(e) The sheriff shall maintain a record of each trust fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record.

SECTION 47. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2006]: IC 36-8-4.3; IC 36-8-7.5-3; IC 36-8-7.5-6; IC 36-8-7.5-7; IC 36-8-7.5-11.

SECTION 48. An emergency is declared for this act.

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